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MURDER!!

THE MOST BRUTAL,

COLD-BLOODED CASE

ON RECORD

A COMPLETE NARRATIVE

—OF THE—

Trial and Conviction of the Parties.

Compiled from the Files of the SAGINAW DAILY COURIER.

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[Carsin, Freeman]

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THE CHESANING MURDER.

A Narrative of the Murder of Charles Smith, and the Trial, Conviction of Two of the Murderers, and the Confession of the other Two.

INTRODUCTORY.

There is a fascination in the horrible details of crime to which the best balanced minds are more or less susceptible. This was manifested clearly by the intense interest evinced in the proceedings of the Saginaw Circuit Court during the progress of the case of which the publishers of this work propose to give a detailed sketch. Therefore, they feel that no apology is necessary for their action in laying the matter concisely before the people. It is a remarkable tale of cold-blooded, calculating villainy which is seldom equaled, and has been extensively commented upon by the best newspapers throughout the United States and Canada.

CHESANING

is a pretty little village pleasantly situated on the banks of the Shiawassee river, in Saginaw county, in the midst of a fine and rapidly developing agricultural locality. Charles Smith owned and lived on a fine forty-acre farm, the product of his own industry and frugality, situated about one and a-half miles south of the village, on the Corunna road. At about two o'clock on the morning of the 13th of September, 1876, the barn belonging to his premises was discovered to be on fire, and although the neighbors were on hand very soon after the fire originated, it was impossible for them to render any efficient aid, and the building was almost totally consumed. Smith was missing and inquiries were made concerning him. Mrs. Smith said that she had seen him enter the barn after the fire had gained considerable headway, and had not seen him afterwards. The fire raged until it consumed all that it could reach, and after it had gone down sufficiently to admit of it, a search was made in the ruins for the body of Smith. On what was left of the barn floor the remains were found in a terribly burned condition, surrounded by a smouldering heap of straw and other *debris*.

MR. SMITH'S FAMILY

consisted of his wife, Mrs. Mary Jane Smith, Cora Rolfe, a twelve-year old daughter of Mrs. Smith by a former husband, a little son aged seven years, and one aged about three, both his children by Mary Jane Smith. Visiting in his family at the time of the fire were Mrs. Julia Ann Cargin, a sister of Mrs. Smith, and her newly married husband, Freeman Cargin, residents of Katonah, Westchester County, N. Y., 44 miles north of New York City, on the Haarlem railroad. Mr. Smith was aged about 40; Mrs. Smith 31; Mrs. Cargin 42; and Freeman Cargin 24. The Cargins were on their wedding tour. There was a young man named Norris Alexander who had worked on the farm at various times for Smith, but there had been difficulty between the two men and Alexander had been discharged. Alexander first went to Smith's to work when he was a lad of between fourteen and fifteen years of age, and made his home there most of the time up to the opening of this narrative. His reputation was not of the best, and once he was sent to the House of Correction in Detroit for larceny. We introduce Alexander with the family, because he figures very prominently in their destinies, as will be seen farther on.

There had been difficulties in the family, Mr. and Mrs. Smith not agreeing very well, and the peace of the husband and wife were not augmented by the presence of Cargin and his wife, although the latter were on their "honey-moon trip." Alexander, familiarly known as "Nock," a nickname for Norris, had also been heard to make remarks that showed a bitter feeling towards Smith. It seems also that young Alexander took lodgings at the Waverly House in Chesaning on the night in question. He was supposed to have been in bed all night and in the morning, but there are indications that he had been out at the window of his room during the night. Joseph Miller, a neighbor of Smith's, had seen two men come out of the house and go to the barn about twenty minutes before the fire was discovered. It appeared also that Mrs. Smith had lately made inquiry in the neighborhood if she could hold her husband's property in case of his death.

CORONER'S INQUEST.

A combination of all these circumstances led the neighbors to suspect that there had been some crooked transactions. The coroner's inquest on the body resulted in a verdict indicating that the deceased came to his death by murder in his own house; that the body was conveyed thence to the barn and there burned with the building, and that suspicion pointed to Mrs. Smith, wife of the deceased, Freeman Cargin, and his wife, and Norris Alexander. The parties were immediately arrested, and followed by an excited mob of the citizens of Chesaning, they were conducted to the depot, thence to Saginaw City, where they were lodged in jail.

of the prisoners commenced before Justice J. M. Clark, in Saginaw City, on the afternoon of September 18th, Prosecuting Attorney Wm. Gillett appearing for the people, and Wm. A. Clark for the defense. The prisoners were all in court, and the women looked quite agitated. During the course of the testimony Mrs. Cargin was attacked with a sort of spasm, the symptoms of which were quite alarming, although she came out of it all right.

A great many of the neighbors were sworn on the examination, and on Wednesday, the 20th, the prisoners consented to waive further examination, preferring to take their chances in the Circuit Court.

The Trial of Cargin.

On Monday, the 11th of December, the trials commenced, each to have a separate trial. Freeman Cargin was the first to be tried. Messrs. Wm. A. Clark and Wm. A. Clark, jr., and John Hurst appeared for the defense, and Prosecuting Attorney Gillett and his partner in civil business, Mr. Lawson C. Holden, for the prosecution. There had been very much talk concerning the trial, and a great many of the men otherwise qualified for jurors had read the testimony on the examination in THE COURIER, and formed opinions, consequently were ineligible. Eighty jurors were sworn in this case before twelve eligible ones could be obtained. The regular panel of twenty-four and fifty-six talesmen were sworn, and at 3.10 p. m. on the 12th, both sides were satisfied with the following named gentlemen: George Jenner, J. M. Wilson, George Streeb, W. E. Smythe, John Zimmerman, Porter Stewart, W. B. Stillman, Charles Burdick, John Howell, Joseph T. Manning, Frank Benjamin, John Baar.

Interest in this case among the citizens of East Saginaw, Saginaw City and the surrounding country had been gradually working up as it became more and more clear that there was a strong case against the accused. On Wednesday, Dec. 13th, the court room was packed to its utmost capacity, and the stairs were crowded. Many, tired of trying to hear a word, or to get even a glimpse of the prisoners, filed away with the consolation that they would see a full account in the morning papers. The reason of this augmentation of interest was the rumor that Dan P. Foote, State Senator elect, counsel for Norris Alexander, had advised his client to plead guilty, and that in accordance with this advice Alexander would so plead and make a full confession of the crime and all its details. This proved true, for this prisoner was brought into court in the forenoon, and plead guilty to the charge of murder. At 2.30 p. m. Alexander was produced in court, and being called to the stand as the people's witness, told a tale, compared with which ordinary tales of bloody murder are but cheerful Christmas stories. Mr. Clark, counsel for defence, objected, because Alexander was examined under the same charge as Cargin, and a party substantially to the record of this case. The objection was overruled, and Alexander took the stand, testifying substantially as follows:

Statement of Norris Alexander.

My name is Norris Alexander, and I will be 19 years of age in March next; my father has been dead three years; he formerly lived in South Saginaw; I was in Chesening on the night of the 12th of Sept. last; I stayed at the Waverly Hotel, kept by Mr. Lefurgey; I arrived at the house a little before 12 o'clock, noon, on the 12th; that night I occupied the same room that I had occupied once eight or ten days previously; at 1 o'clock on the afternoon of my arrival I left the house with a gray horse and top buggy; I went to a point beyond Mr Finch's and there met Cargin; he got in with me and we drove a mile east and a mile north, then back to the State road; there Cargin left me and went to Smith's and I went to Mr Jones', thence back to the hotel; I got there between 4 and 5 o'clock and took supper there. That afternoon Cargin met me at Hinckley's Corners; my horse was standing on the cross-road, about a rod from the State road; I stayed there about fifteen or twenty minutes before Cargin came. Cargin stated that the work he came out here to do would have to be done soon and he wanted assistance, and said if I would help him he would do it on that night; I said that I would think it over; that I must take the horse back. I went to the hotel that night and went to bed, and got up and went to Smith's. That night I retired to bed at 8 o'clock; Mrs. Lafurgey was in the sitting room; know Major Rogers; saw him at breakfast the next morning. After I went to my room I locked the door, took off my boots and went out of the window and put my boots on; can't say what I stepped on first, think it was the shed roof; jumped to the ground on the west side of the fence, toward the river, then went to Smith's barn, thence to Cargin's window. He was to have it so I could get in. I got in and Mrs. Cargin came in and shut the window; Mrs. Smith then came in gave me $10. Mr. Cargin then went to bed and Mr. and Mrs. Smith went to bed in another room. I stayed in the room with Cargin; did not retire; stayed till 12 o'clock. Cargin then got up and took a club from under the bed; before that he said all he wanted me to do was to hand him a strap which he gave me; Mrs. Cargin did not join in the conversation; Mr. Smith did did not know I was there; Cargin proceeded to Smith's room, and I followed; Mrs. Cargin dropped something that sounded like bullets dropping on the floor, and Smith kind of started; Cargin struck Smith twice, and Mrs. Smith ran out under his arm; Mr. Smith raised up in bed and clinched; Cargin got on the bed on his knees, and Smith got out of bed. I took the stick and struck Smith twice; Cargin said, "Give me the stick, you can't strike hard enough." He then took the stick and struck Smith twice; then I gave him the strap and left the room; Cargin took the strap and put it around Smith's neck. After Smith was dead Cargin told me to help carry him to the barn; he took the head of the mattrass and I took the foot; we carried it to the barn and laid it on the floor; I then went up on the mow and pitched down some straw; then went back and found blood all about the room in various places; Mrs. Smith or Mrs. Cargin went to the kitchen and took an old saw, and I and Cargin took the plaster from the wall; took a pan and put the plaster and saw plate into it, and took it to the barn and threw it on the straw; went back to the house and Mrs. Smith was washing blood from the base-board, cleaning up the room. Cargin and I went to the barn; he took a match and gave me one; he lighted a fire on one side of the barn and I on the other. Mr. Cargin and myself took the plaster from the room. Mrs. Smith was in the room, but don't remember Mrs. Cargin. When Cargin and

I went to Smith's room Mrs. Cargin was in bed. She got up and came in and held the lamp. Cargin asked me to-day if I understood the Judge when he was talking to me to-day. I said in some respects. Cargin said he might be convicted in this Court, but he could not in the Supreme Court. Cargin didn't state to me why he wanted Smith killed. I first made this statement to my uncle and my brother and Mr. Foote.

Cross-Examination—I did not employ Mr. Foote. My uncle did for me. Made this confession to Foote two or three days after my arrest. Nothing was said to me about making confession until I made it to Mr. Foote.

By permission of the court and counsel the redirect examination was re-opened by Mr. Gillett.

I made a confession on the advice of my uncle and brother, and I wanted Mr. Foote to hear the statement and he was called into the room. I saw Cargin on the 12th in the morning. I drove him to Hinckley's corner and left him with the understanding that I was to meet him there in the afternoon. When we took these things into the barn, we took also the carpet that was in Smith's room, Cargin's light pants and shirt, and my shirt; think Cargin put also Smith's clothing in the barn; I went ahead. I had on the same clothes I have on now and a black hat. Cargin had on pants and shirt; no vest, shoes or hat. I first knew it was contemplated to kill Smith in July last; knew it by letters that Mrs. Smith had me write to Mr. and Mrs. Cargin. I talked with Cargin about it first on the 12th in the morning. When Cargin got in the buggy I had the top up; before passing Smith's he wanted to get out, so Smith wouldn't see us together. We then drove to Parshallburg. He said he wanted me to help him. I said help him in what? He said, "Oh! you are mighty innocent—you don't know anything about it, do you? I know that you have known all about it ever since I came here." I said I didn't want to have anything to do with it because I had a horse here and it would be known by my being seen in the neighborhood that I was implicated. They certainly would suspect me if I was in the neighborhood. He said "no, there will be no suspicion about it; we'll fix that." He said that when I was eating my breakfast he might be poking among the ruins in the ashes for the bones of Smith.

After I left the house I took the road to the hotel and back into the hotel the same as I got out. On my way I saw the flames of the barn. Next saw Cargin when he was arrested and took to Chesaning. When going from Chesaning I met two men. I went aside and let them pass.

My brother told me he knew I was implicated and had better make a statement. That's why I made it. I next made a statement in presence of Dr. White, Mr. Foote, Mr. Andrus and Mr. Gillett. It was my own will. Mr. Foote told me to act on my own judgment.

Cross-Examination.—Told Mr. Foote in Chesaning that I was innocent; my uncle sent Mr Foote to see me; told him if I had my examination in Chesaning I would telegraph for him; he asked me to state what I knew about the case and I told him I knew nothing about the case; I was arrested by Mr. Stannard and taken to Mr. Griswold's hardware store and there saw Mr. Foote; thence I was taken to Stannard's meat market; then I was given into the custody of one of the Homer Boys and Andrus came up after me that evening; he brought me down and put me in jail; in three or four days my uncle and brother came and talked to me; think I made a statement to Mr. Foote before I was taken before Justice Clark; no one before that time

advised me to make a statement except my uncle and brother; Mr. Foote stated that I might be granted a lighter sentence for making my statement, and it would be better for me. This was at Mr. Foote's office, when Mr. Foote, Mr. Gillett, Dr. White and Mr. Andrus were present. I stated part of the facts, not the whole. This was more than a week after I had made a statement to my uncle and brother. It was after my examination and after I had been committed to jail. Have talked with no one else with regard to testifying. At the time of this confession some of the gentlemen said that my statement corroborated that which they had seen at the scene of tragedy. Nothing was said to me about my testimony convicting Cargin, I understood that I plead guilty this morning to murder, and that the jury was to decide whether it was in the first or second degree. If I had known my plea was a plea to murder in the first degree, I should have made that plea. Mr. Cargin told me to-day that I plead guilty to the charge of murder in the first degree, that my evidence would not count for anything when the case went to the Supreme Court. My statement to Mr. Foote was witnessed by my uncle and brother, and I don't know whether I signed it or not.

Mr. Clark insisted that the paper be produced in Court.

Witness said that Foote wrote the statement, and that it was left in Foote's office.

Mr. Clark moved that witness' testimony be stricken out because inducements had been held out to him.

Alexander, resuming, said: Have known Mrs. Smith three or four years; she wanted me in June to write for Cargin to come and put Smith out of the way; Mrs. CargIn answered the letter; the letter is destroyed. The letter I wrote was addressed to Mrs. Cargin; I signed the letter with Mrs. Smith's name, and mentioned in the letter that I was writing it for her. The answer was addressed to Mrs. Smith. She showed it to me in June. The letter said that Mr. and Mrs. Cargin would be out here in the fore part of September to do what Mrs. Cargin and Mrs. Smith had agreed upon; that Mrs. Cargin would produce a man that would get away with Smith for $500; my letter to Mrs. Cargin said that if they would come they should have the money as soon as the job was done. Mrs. Smith got several letters from them, all of which she destroyed. I was knowing to the letter being destroyed. I had been plotting this murder with Mrs. Smith over a year before, but I didn't have pluck enough to do it. Cargin was to do the deed and I was to be in Vassar away from suspiclon. The first plan was for me to shoot him through the window, but was afraid of being caught in the act. Then there was a plan for poisoning, but that didn't work; that was when Mrs. Cargin was here in the spring. I was first told of this in June last. Mrs. Cargin and Mrs. Smith are sisters. Mrs. Cargin I think went back in June and the letter was written a few days after. My reason for plotting with Mrs. Smith for Smith's murder was to get the property. I was to marry her. I had sexual intercourse with her since four years ago this fall. I am nineteen years old. Can't say whether Mrs. Smith had a child by me; I had difficulty with Smith; he suspected me of intimacy with his wife; that was two years ago; my reason was not only the property, but that I might undisputedly enjoy the person of Mrs. Smith; she is 31 and has three children; Cargin knew why I wanted to get rid of Smith; he knew it the day we were in the buggy together; he said it would benefit me more than him; Mrs. Smith was to give him $500—she had so agreed. This was the day before the murder; he got in the buggy this side of Mr. Doane's, 1½ miles from Smith's house; he said if this thing

was to be done it must be done immediately, and that he wanted help; I made strange—I said what thing? He said you know what thing; you have known all the time that I have been here; I laughed and said I didn't know; then we talked sincere, and I told him I did know, but I wanted to go to Vassar and would come back on the train; he said it might as well be done that night as any time; I said I would think the matter over and if he would get $25 we would go to Vassar together; left him at Hinckley's crossing with the agreement to meet again, he to fetch me $10 if I went to Vassar alone and $25 if he was to go with me; he was to get the money of Mrs. Smith; I wrote a note to Mrs. Smith and sent it by Mr. Cargin asking for $10; we were to meet for him to fetch me the $10 and arrange for going to Vassar; he went to Smith's and I went to Chesaning; in the afternoon I drove to the place and sat in the buggy; saw Mr. Miller and Joe Miller while waiting; passed time of day with Joe; don't know where he went; Cargin came in about ten minutes; I asked Cargin if he brought the money and he said no; Mrs. Smith wouldn't send it; she wanted to see me that night at the house; when I went there that night she gave me $10; Cargin got in the buggy and we drove off; we talked about the plan; he said, "I will strike Smith with a club and stun him; all you must do is to hand me a strap and I will put it around his neck and choke him," meaning that he was to strike him, then choke him with the strap so there would be no blood; he would do it when Smith was in bed asleep. I had been forbidden the house. I dared go if I had wanted to. I told Cargin I could come to the house; that I was stay to the hotel, and explained the position of my room. He said that when I was eating my breakfast in the morning he would be poking in the ashes of the ruins for Smith's bones. When I came to Smith's house that night I think the moon shone; got out of the window at about 8.30; locked the door and went out of the window with my boots off; went thence by the State road to Smith's; saw no one when I went around the house. When I came back to the hotel I came from the south, and went in the same way I went out; didn't cross the lot or garden. I got into Cargin's room with my boots on; their clock struck shortly after I got there; don't know whether it struck 9 or 10. Mrs. Cargin was not in the room; there was no light in the room. Heard a noise in the kitchen. Shortly after Mrs. Cargin came in and shut the window down. I was sitting on the bed. She said nothing to me; presently Mrs. Smith came in; Mrs. Cargin said she wished she hadn't come out here. I told her she was getting whimmy—scart. That was all the conversation with her. She was undressing herself. Mr. Cargin came in, took a club from under the bed, told me to heft it, and asked me what I thought of it. When Mrs. Smith came in she handed me a $10 bill and said nothing. Mrs. Smith stayed in the room a minute or two. Cargin then came in. Could hear Smith in the kitchen pulling off his boots. Heard Smith go into his bed-room and go to bed. The doors had latches. Smith's door, I think, was open. There was no light in the room only as I lighted a match to see if it was a $10 bill she had given me. The stars made it light enough so I could recognize people. The club was 2½ or 3 feet long; iron wood, I should think; small at one end and large at the other, the natural growth; club was about 2½ inches thick at the butt, and was green. I said nothing, but I manifested horror; said I thought we would be caught in it; that there would be traces of it. I made no objections to the murder; he was an older man than I was and ought to know more. Mrs. Smith was not in the room at this time. Cargin said he was to strike him while in bed, and I was to hold the strap to hand-

him. I understood and consented. The disposition of the body was planned before. I said there would be likely to be blood. He said he would risk it; that he could stun him, then choke him. We made no arrangements about blood. We stayed there till the clock struck struck 12; was asleep when the clock struck 11; laid on the front side of Mrs. Cargin's bed. Mr. Cargin awoke me just before the clock struck 12; he shook me; told me to get up and handed me the strap; it was a heavy trunk strap; he had a club; I had my clothes on all but my boots; had no light; there was none in the house; I followed him close behind. Mrs. Cargin was awake; she dropped something like bullets on the floor. She was in bed when I got up. There were five or six sounds of dropping. Cargin was going into the bed-room at that time. Smith roused; did not wake entirely; heard him turn over. We both then stepped back and waited till Smith began to breathe heavy again; Cargin advanced to the bed and I after him; the bed was at the left as we entered. The door swung to the right. The foot of the bed was at the door on the left side; Smith was on the back side of the bed close up to the wall; Cargin stepped to the head of the bed, and I was close enough to touch him. Mrs. Smith was on the front side of the bed, and behind was Mr. Smith. Cargin's arm reached over Mrs. Smith to strike Smith; suppose she was awake. He struck the blow with one hand and Mrs. Smith slipped out under Cargin's arm and ran out and took up the baby from the cradle; then Cargin struck Smith a second time; there was a dull thud twice; heard no sounds of blood. I was close to Cargin. Mrs. Smith passed out to my left. After the second blow he told me to give him the strap; I went to give it to him, and before he got it Smith raised up and clinched Cargin; both clinched; Cargin got on his knees in bed and Smith got out on the floor. I then took the club and struck Smith. Cargin was holding Smith still, standing up on the floor; I reached down and got the club and struck Smith twice on the head with one hand; meant to strike as hard as I could; I struck him to knock him down. Smith said, "For God's sake, boys, don't!" then "For God's sake, Freem, don't!" Then Cargin struck again from on the bed, the club in one hand. Smith then rolled over and Cargin pulled him on the bed and struck him once with his fist. Smith made only these two exclamations, then all was still only a gurgling noise in Smith's throat. I gave Cargin the strap and left the room. Mrs. Smith was in the sitting room. The strap was left on Smith's neck; I stayed to see that it was on Smith's neck. By the sound, I suppose Cargin drew the strap tight around Smith's neck. During this time I heard nothing from Mrs. Cargin or Mrs. Smith. When I went out in the sitting room Mrs. Cargin said it was gone, meaning Smith's life. Mrs. Smith said nothing. Cargin came to the door and said we must dispose of the body. We took hold of it and carried it with the bed to the barn; it weighed about 145 pounds. Put the bed and body on the barn floor; left the body on the bed. Cargin told me to go up on the hay-mow and throw down straw. I did so, and then we went back to the house and removed the blood. The women had lighted a light before we took the body to the barn. Took bed-clothes and one of Mrs. Smith's dresses with the body, and, I think, took some of the clothes from the cradle upon which blood had spattered. Then removed the plaster and tried to wash the blood from the wall and base-board. There was over a dripping-pan full of plaster; broke off a three-cornered place from the wall in the corner about six feet at the base and six feet high; threw the plaster on the corpse—on the pile; also carried out Cargin's pants and the saw; put them all on the heap with the body. There was maybe

one-half ton of straw on the pile. I went to the house then and took off my shirt and put on one of Cargin's. We then carried my shirt and Cargin's to the barn. Nothing was said as we went along. I had left my boots at the gate and was in my stocking feet. It was middling light; saw no one on the road and heard no one walking. Mrs. Smith's child was crying in the house when we went to the barn; think Smith's clothes were lying at the foot of the bed. We did not look to see if there was blood on them. but burned them lest there might be; went inside of the barn to set fire to it; shut the big barn door each time when we left the barn; the doors slammed once or twice. From the time we put the body in the barn till the time of setting the fire it was only a few minutes. We both struck matches, he on the north and I on the south side. I sat the hay mow afire just above the beam, three or four feet high; he set fire to the wheat and oats. Where I set fire it started up at once I ran, and think Cargin shut the doors. Before I got outside of the yard could see the barn full of fire. I picked up my boots and carried them in my hands to Chesaning. Ran from the gate to the hotel. When I got to Mr. Cummings' I heard a cry of fire; saw no one on the road. From the time I left the house to go to the barn it was only five minutes till I took my boots and ran. When I got into the hotel window I thought I heard some one. I went to bed and went to sleep—slept till daylight. Got up about 6:30 or 7 o'clock. I heard Mr. Lefurgey mention about Smith's barn being burned and him burned in it. I asked him if that was so.

No one except those I have mentioned have advised me to make this statement. Have had conversation with Mr. Northwood. He said it was a d—n poor job. He said I was up on a pretty bad case and it was a d—n bad job. Since I have been in jail I have tried to escape. I was sent to the House of Correction for stealing $20 in Chesaning, at the Waverly House three years ago. Have clandestinely corresponded with Mrs. Smith in jail, sending letters by the turnkey. My uncle got a bottle of chloroform for me this summer; this was to give Smith so that we might murder him. My uncle got it and put it in his barn, and I went and got it. I didn't understand the nature of chloroform, and therefore did not use it. I gave it to Mrs. Smith; got it for the purpose of using it on Smith. I once drew a knife on Smith in self-defense, a year ago, in Smith's lot; that was a difficulty growing out of intercourses with Mrs. Smith; had no conversation with Mrs. Smith in jail; had letters from her which Mr. Giddings read; when I went to Foote's office it was at my request, and Andrus took me there.

The cross-examination here ended for the day, but Mr. Clark said he might want to ask some questions in the morning.

ALEXANDER'S APPEARANCE.

During the statement of Alexander, which consumed the entire afternoon, the Court House was crowded and the closest attention paid to the horrible details of the crime as related by the witness. Cargin, who was the only one of the prisoners present, except Alexander, remained perfectly calm and apparently unmoved by the terrible recital. There is something remarkable about this boy Alexander. We will attempt to give a description of him as he appeared on the stand.

He was well dressed in the dark suit that Mrs. Smith gave him money to buy in Corunna, with a turn down collar and blue tie. He looked very neat and tasty. Complexion dark, eyes black, features good and regular. Hair a dark brown, wavy, and combed carelessly down on his forehead. His hands,

which were not very delicate, were clasped together most of the time, and he amused himself at odd times by cracking his knuckle joints. He spoke plainly, and only answered the questions asked him. That he did promptly and to the point. His mind was evidently upon the business before him, and he kept his eye steadily on counsel. He did not appear defiant, but evidently thought he had business on his hands, and was determined to do it as well as in him laid. His language was very good, and he always picked out the words best calculated to express his meaning. To listen to him it was easy to believe that he was telling the truth, and that his intelligence is above the ordinary.

Mrs. Smith's Confession.

The next morning, December 14th, at 9 o'clock, there was, if possible, a still larger crowd present to hear the trial. The city was in a great state of excitement and nothing was talked of on the streets, in stores, hotels and families but the terrible developments made on the day before at the Court House. Mrs. Mary Jane Smith, wife of the murdered man, had also made a statement to her attorney, Mr. Eugene Wilbur, and had signified her willingness to plead guilty and to be put upon the stand to testify. This state of facts being known to the prosecuting officers, Messrs. Gillett and Holden, Mrs. Smith was brought into Court and corroborated the horrible tale told by her paramour, Alexander, substantially as follows:

I am the wife of Charles Smith who died on the 12th of September last; have been married to him ten years; know Freeman Cargin and Julia Cargin; she is my sister. On the night that Smith died Alexander came to the south window and I gave him a ten-dollar bill; that night Cargin came to my bed-room and struck Smith. I jumped out of bed and took my baby and ran out of the room; I then heard that the barn was on fire; I went to bed that night about eight or night o'clock with my husband; Cargin struck my husband once; we all stayed in the sitting room. I don't know what was done with the body of Smith. I asked Mr. Westfall if he thought Smith was in the barn; his hired man said he thought he was; I went back to my bed-room after the barn was burned; I found the bed moved and spots of blood on the wall and base board; I took some of the blood spots off with my scissors. Mr. Miller was there that morning, but I don't know what I said to him. My children are aged twelve and seven, and the baby two years; the two oldest were sleeping in the northwest bed-room; do not think they knew what was done that night. Mrs. Cargin visited me last May and stayed three weeks; on the day before the night on which Smith was killed I received a note from Alexander by Cargin, asking for $25. I sent back word to him that if he would come up that night I would give him $10; I gave it to him on the night of the murder. Mr. Cargin and Smith were in the kitchen playing cards. I told this story to James Goodale and Dr Clark, of Chesaning, on the Saturday after I was arrested; also to Mr. Smith, of Flushing, an old friend. I asked that he be telegraphed for on the morning after the barn was burned. Mr. Goodale took a written statement of what I then said. I made it at my own suggestion and advised by Mr. Smith, who is no relation, but we call each other brother and sister. Alexander wanted to kill Smith a long time before but had not the courage to do it, neither had I; sometimes the plan was to shoot, again to poison him, but we did not have the courage. I agreed to pay Cargin $500 when his wife was up last Spring, for putting Smith out of the way. The letter on the subject was burned; Alexander wrote the one to

Mrs. Cargin and signed my name to it and also his own. These letters were all destroyed; they were about putting away Smith; Mrs. Cargin would write to me in my own name about matters which were not private; I wrote to her as Julia Palmer about the killing of Smith, so that Smith would not get the letters; she stated that when they came out they would "make things all right," meaning Freeman and her; they came in August; I raised the money to bring her by a mortgage on our place in Maple Grove; Alexander was to go to Vassar to be out the way while the killing was being done. I had some trouble with Smith one day at our gate when Mr. and Mrs. Doane were present about a pair of mules that Alexander used to go to Corunna with, and Smith looked round and saw Cargin in the door of the house; Smith said to Mr. Doane, "You see I am watched." Cargin asked Doane if he had ever heard that my baby belonged to Alexander; Doane said "No." I have only told this story to Mr. Andrus. I made a false statement at the Coroner's jury, at the instigation of Cargin, who told me what I should say.

Cross-examination:—On the morning of the fire I commenced the conversation with Mr. Westfall and asked him if he knew my husband was in the barn. He replied: "It's nothing more than I expected long ago." The confession I made to Mr. Andrus was in my cell; Mr. Smith was present, and at his suggestion I told Andrus the story about Cargin coming into my room and striking my husband. I told him that Smith went into the barn after the fanning mill; Cargin told me to say so; I told Mr. Andrus and Mr. Smith at the jail that me and my little girl pulled the buggy out from the burning barn; I returned to the house, and Mr. and Mrs. Cargin spoke about the bloody spots on the wall, and I took the scissors to remove them; this was while the barn was burning. This conversation in the jail was put in writing by Mr. Andrus; don't remember whether I signed it. In the conversation with Mr. Goodale, Mr. Smith and Dr. Clark were present. This was at Chesaning, at Mr. Goodale's house. I then told about Cargin striking Smith in bed, and about my going to the children's room where I put my fingers in my ears so that I would not hear anything. Cargin came to my room and told me the barn was on fire, and to get up and holler fire, and to say that Smith was in the barn and that I heard him holler. I went out with Cargin's coat on and hollered fire, and also said what Cargin told me to say; I told this to Mr. Goodale and the rest in Mr. Goodale's house; my brother told me for "God's sake, tell all about it, for it is better to be punished in this world than in the next." This was all written down, but I don't remember signing it. I have had no conversation with Mr. Northwood about my troubles. He is the guardian of my children; have had no conversation with him about the burning of the barn or the murder of Smith. I went to Chesaning voluntarily to make my statement at the Coroner's inquest. I wouldn't have gone if I could help it. The inquest was at my house before the arrest. I testified without making any objections. I knowed I was swearing false; I supposed I had to keep it secret. I first saw Alexander when he came to our house to work. He resided with us a year and a half before I had any adulterous intercourse with him. Our adulterous intercourse was frequent—as often as we could get together, I suppose. (The witness at this point indulged in a laugh.) It commenced the second winter he was there; we probably had intercourse as many as a dozen times a month, sometimes in one place and sometimes in another; sometimes when Smith was at work and sometimes when he was in town. Smith was jealous before this commenced, still he wished to keep Alexander. I tried to have him let Alexander go away and he wouldn't; he and Alexan-

der had a few spats; the first time was when in Maple Grove to work. Norris went away after that, and was away about a month at Smith's request. The next fuss was in the next Spring. Our adulterous intercourse went on during the Spring. In the next fuss Charles called Alexander a son of a b——, and they almost came to blows. I told Smith that folks would laugh at him if he had a little boy like that arrested. Alexander never stayed after that; Charley said that Alexander drew a knife on him down in the lot. It is two years since he lived at our house; after he left our house he said he went on the river at Saginaw; saw him in two or three weeks after at our house; don't know whether Smith was at home. Every two or three weeks he would come and see me; we would continue the intimacies if we had a chance. Can't say whether it was two or two and a half years ago since Alexander first spoke about killing Smith. I was hanging up clothes one day and Alexander came to me and said he wished Smith was dead and out of the way. I said, "why, you wicked boy, you are as wicked as I am." He proposed to shoot him; I said he hadn't grit enough. I told him not to do it a hundred times; we talked about it frequently; there was no plot; he brought chloroform to my place; there had been no agreement about getting chloroform; he told me to take it and keep it out of sight; I suppose it was to kill Smith; I put it out of sight; nothing was said about killing Smith that I remember of; I did not want to use chloroform for any other purpose, and I objected to him using it; I didn't furnish money to buy it; had a talk with Alexander about poison, and I said it wouldn't do; he spoke about it and I said it wouldn't do; he said he could shoot Smith through the window, or get some one to do it; I said it couldn't be done; this talk was a year and a half or two years ago; can't say how long it is since the talk about the poison; there was no plan laid; have had frequent conversations within the past two years about murdering my husband. I have three children living; two belonged to Smith and the other to my former husband; don't know whether one belongs to Alexander or not; don't remember of having any talk with Alexander about this last plan; Alexander said a year and a half ago that he could get a man named Shuler who would kill Smith. My sister told Alexander that she could get a man to put Smith out of the way; that was in my presence on the night between Alexander's mother's house and the depot at South Saginaw. The way it came about that she spoke of it was this: We had gone down to South Saginaw, and were to have been back the night before we did. When we were going to the depot Mrs. Cargin made the remark that Charlie would raise the devil because we had not returned when we agreed to. She then said that she would not live with such a man; that she would kill him. She said she could find a man to put him out of the way. I let the joke go on. Nothing more was said at the time. My sister stayed two weeks longer at my house. Mrs. Cargin had no motive in getting my husband out of the way. The subject was mentioned one day when we were in the water closet; she said she could find a man to put him out of the way. I believe my sister has nervous spells; she had fits there at my house and since in the jail; haven't known her much in the last twenty years; don't think excitement conduces to fits; never heard her talk of her head except once in jail. Mrs. Cargin was not married when she was here in the spring; the second time they came out my sister said she had just got married to Cargin, and had come to spend their honey-moon with us; she didn't say how long they had been married; I called him my brother-in-law at the inquest; they slept together and I supposed they were married. I got a letter from her

while she was east, saying that she had all things ready and would come if I would send her money: the letter is burned; don't know whether this letter was answered or not; Alexander wrote a letter to her, and I saw him address it; I don't know what was in it, or whether it was posted; I don't remember what was in it; it was something about her coming; had several letters from her, some in my name and some in Mrs. Palmer's name. Palmer was Mrs. Cargin's first husband. Alexander wrote two or three more letters; can't say when the next was written or what was in it; can't say what was said in any of the letters. She wrote to me in one of my letters that she was coming; my husband knew they were coming, but made no objections. On the Friday before the accident happened I had a talk with Cargin; by accident I mean my husband being killed. He asked me if I would give him $500 if he would kill Smith. I told him I was afraid he would get caught in it; he said he would risk it. I told him I would pay him when he had done the job; that's all that was said then; Mrs. Cargin was not there. Had no other talk until Tuesday; he then said he would give him a hell of a threshing and let it go at that. I told him I was going to mortgage my place for $250 and go home, east. Charlie said that if Alexander went with me I needn't come back. I didn't know that Smith was to be killed in the manner in which he was until that night. I heard Cargin say he would do it that night. I didn't send the $10 to Alexander because I didn't want to give him so much; I had always been giving him money; the letter said for me to send him $25—that he wanted it to pay his hotel and livery bill. I had no idea he was coming to our house that night; he came between 7 and 8 o'clock; I saw him there in the south-west bed-room; I had been told by Cargin that he was coming; I heard a noise and went into the bed-room and saw him there; I suppose I heard him getting in through the window; I knew he was coming for the money; it was dark in all the house; I had the $10 bill in my pocket and handed it to him; I couldn't see him and nothing was said; he took the money and I left the room and went to the kitchen. My husband and Cargin were there playing cards; they were friendly. Nobody was in the room when I gave him the money. I didn't go into the bed-room again. Smith went to bed between 8 and 9 o'clock. All went to bed at the same time. I went to sleep. I saw the time by the clock; it was nearer 9 than 8. I was disturbed between 12 and 1 o'clock. Cargin came in the room. There was no light. I was awake. Saw no one with him. He struck Charlie on the head and Charlie said "Oh!" I had heard no noise previous, nor heard any stir. Can't say whether anyone else was in the room or not; it was dark; don't know whether Smith turned over or woke up; I was asleep part of the time. There was one window in the room. Can't say whether it was moonlight. Can't say how Cargin was dressed, but think with light pants and calico shirt. If anyone else had been in the room I might have seen them. If Alexander had stood behind Cargin I think I should have seen him; I didn't see him. I heard Cargin strike a blow and then heard Charles cry "Oh!"; saw nobody strike. Didn't see Alexander in the house that night only when I gave him the money. I didn't go to render assistance to my husband. My sister was awake. I went to the children's room and stuck my fingers in my ears; heard no further noise. Saw Cargin come to the bed-room door and say the barn was on fire. Had no conversation with Cargin about the barn being on fire. I went to the barn after it was on fire. I went there and drew the buggy from the barn. My little girl helped me. We then went back to the house and went to bed.

Mrs. Cargin asked me if the blood was all off the wall. I then went and tried to wash the blood off. The whole of the barn was on fire when I went out. Mr. Cargin ran down the road, I suppose to call the neighbors. Pretty soon Joe Miller came. I was crying and yelling then. Others soon after came. I was in the bedroom when Cargin told me that the barn was on fire. I asked Joe Miller to let the pigs out of the pen so they wouldn't burn up. Didn't see Alexander there. There were oats and wheat and straw in the barn. I think there was no threshed straw. The oats were not bound; they were over the horse stable, at the north end of the barn. The stable was lower than the barn floor, and the oats and wheat were over the stable. The oats and wheat extended clean across, reaching not quite to the top of the barn. I took my scissors and scraped blood from the wall; afterwards I went into Mrs. Cargin's bedroom and laid down. We had no breakfast that morning. I went to bed in her bedroom between 4 and 5 o'clock, and got up when Mr. Dredge and Mr. Stannard came in. They sat down and asked how it happened; Mr. Dredge said it was an accident. Mr. and Mrs. Cargin and myself talked over what we were to say on the day before the murder, talked about it the afternoon before he was murdered; Mr. Cargin and I talked of it on the Friday before. He said if we done it we must make out that some one else did it; Mr. Cargin said he would choke Smith to death; he said so on Friday and he said so before; he said before that he would strike him on the head with a shovel in the barn; I talked about paying Cargin $500 in the spring; I was to pay it whenever I could; I paid him $40 on the Monday after I went to Corunna on Friday; the murder was on Tuesday night; paid him the money the Monday before the murder; his wife was present; he said he wanted the money to pay their fare here for which they had borrowed money of Mrs. Cargin's son; gave him no security; considered the $40 part of the money to be paid for the murder; nothing was said about disposing of ourselves after the murder.

I had at one time an arrangement with Alexander to have a string tied to my finger and out of the window so that Alexander could pull it and I get up and let him in. I asked Mrs. Cargin what she had done with the letters I had written to her; she said they were at her home. Mrs. Cargin when she came, said she came on to do what she intended to do; I knew what she meant; nothing further was said about killing Smith till that Friday.

I first came to commit adultery with Alexander from hard usage and love; he was the only friend I ever had; my hushand was cross and Alexander was good and kind, and when he asked me I didn't refuse; when his father died I was very kind to him; otherwise I gave him no encouragement. Mrs. Cargin and I had no trouble in jail, and I made no threats to her; before I married Smith I lived in Maple Grove; before that I lived in New York; didn't leave there for crime; there was never a charge made against me for crime; my husband came to this part of the country before I did. Mrs. Cargin and I have been on good terms all the while we were in jail. When we went to Corunna I gave Alexander money to buy him a suit of clothes.

Re-direct.—No one but us four knew about the contemplated murder except one Shuler.

Re-cross.—My former husband's name was Rolfe, and my maiden name was Dingy.

MRS. SMITH'S APPEARANCE.

This ended the statement of Mrs. Smith. She made it in a loose, disjointed manner, and was evidently endeavoring to screen her paramour as much as possible by laying the blame more or less on the others. Mrs. Smith is a woman of average height, rather spare in figure. She gave her age as 32 years, although she looks 38. She has a bright, intelligent look, clear blue eyes, but a complexion which the morning fogs of Michigan have long since ruined, and the ruins are dark and sallow. She is ignorant and illiterate. She might have been pleasant and winning as a girl when a pretty face and an agreeable way tone down glaring defects in education. She does not appear like a murderess—one who would plan and execute a murder—but rather like one who could be led by others into crime. No word of sympathy was expressed for her. All looked upon her with horror, and seemed to think that it was a mistake just at this time that the laws of Michigan would not admit of capital punishment—a life for a life. The Buffalo *Courier*, in speaking of Mrs. Smith, says:

"Judging by her testimony, she is one who has lost every instinct of her sex without losing her reason. In her self-possession, the wantonness of her murderous intentions and the absence of revenge as a motive to her purposes, she is certainly the worst woman of whom we have had account in our own time and country."

Other Witnesses.

Testimony of other witnesses corroborated the statements of both Mrs. Smith and Alexander.

ELIJAH S. BENNETT

Was called to testify as to the circumstances of Alexander's going to bed at the Waverly House on the night of the murder, and Major Rogers, who slept in the house on that night, testified to having heard a noise outside of the window of his room during the night.

DR. CLARK,

of Chesaning, testified as to the condition of the remains in the ruins of the barn, and to the condition of the house. He said: There was a spot on the middle of the barn floor darker than its surroundings; the bones were a couple of feet from the central portion of the dark spot; there was from one-half to a bushel of plaster, and in the midst a point of a saw; we dug down into it and found an ordinary two-inch framing chisel; the saw was a piece about two feet long; a little to the west was a heap of something that had the appearance of being a straw bed; it was compressed and worn out; in it we found some fabric that looked as if it might have been a scrap of a lady's dress badly burned, burned to a cinder; in the midst of it was a peculiarly soft and spongy cinder, which I took to be a blood cinder. Also found part of a pocket knife in the midst of the straw; also found a tin pan.

Witness here exhibited a collection of fragments of bone and a piece of the plaster that was cut from the wall of Smith's bed room two or three days after the murder. The witness said that Smith had a fractured leg once, and one of the pieces of bone he exhibited was a piece of a fractured bone. He exhibited several pieces of bones, some in cinder, and all more less burned. The something that the Doctor thought was a blood cinder was produced and shown to the jury.

Resuming, the Doctor said that this was the cinder he had alluded to.

Cross-examination.—Found some flesh, a piece four or five inches long, which looked as if it might be a portion of the calf of the leg; there was some flesh in various places on the bones. All the remains of a human body was the occipital bone, and part of the neck was present; the spinal column, heart and lungs were exposed and very much shriveled; the heart was scarcely one-half the ordinary size, and the lungs one-fourth of normal size when not very much inflated; the liver was not altered much; the stomach was shrunken to one-half its normal size; do not think that such injuries to the body as described by the witness would leave marks that could be discovered in the remains found; about one-half of the temporal bone was present, the upper part gone. If Smith was on the back of the bed, and Cargin reached over and struck him with the club mentioned, it would depend upon the relative positions of the two whether the marks would show on the piece of the temporal bone found. The edges of the bone were too much burned to determine whether there had been fractures. There was no evidence of clots of blood about the skull. One of the chest muscles was principally present. From the appearance of the remains the greatest portion of the fire was spent on the anterior of the body. The coats of the stomach were not gone; limbs all burned away but the few pieces shown. The piece of flesh was found afterwards. I could only tell that it was a portion of a human body by the bone in it. If fire burns a mass of blood it would have a cinder like that cinder. I think the cinder is of blood alone. If I had found it anywhere else I would have called it a blood cinder. I judge from having seen blood cinder. I know of nothing else that would make such a cinder. Saw no evidences of feathers. Think Mr. Westfall stirred up the heap; there was quite a lot of material still burning. When the body was raised the material blazed up and was gone. (A cinder, supposed to be of cloth, was shown the jury.) Saw no evidences of anything woolen. (Other cinders of cloth were shown the jury, and there was a question as to whether they were woolen or cotton.) I examined the plaster in the barn, but found no traces of blood that I could identify. One extremity of the blood came near the pile of plaster. The plaster shown here was taken from the wall of the house by Mr. Westfall; can't state whether the spot upon it is blood or not with the naked eye. (A magnifying glass was produced, and the jury examined the piece of plaster through it.) This plaster was taken from the north side of the bedroom near the door; saw other blood in the room at the same time. The blood was on the wall rnd base boards; there was also blood on the floor. I examined some of the blood with a microscope, which magnified enough to show the globules. There were marks on the lath showing that the plaster had been removed by a sharp instrument.

Re-direct.—I treated Smith when he had a fractured leg; I think it was in '73; the tibia or large bone of the lower leg was fractured. (The doctor here showed a piece of the bone which he said had been fractured.) There was enough of the bone when I picked it up so that I could determine that it was the tibia. No other physician saw it.

JAMES GOODALE

was called to the stand, and a diagram of the country in the vicinity of the murder shown him, which he said his brother drew. Mr. Goodale testified: Know Smith and his wife; was at Smith's house on the 16th; examined the room; saw a bedstead and where plaster had been taken off, and where some instrument had scraped the lath there in a good many places; there was some

plaster dust in the room; saw Mrs. Smith and had a conversation; Dr. Clark and a man named Smith were there; I reduced what she said to writing and have it with me.

Cross-examination.—There were a good many marks on the plaster which I thought had been made with a case knife; the lath looked as if scraped with some instrument like a chisel, the marks running both ways; sometimes the instrument would gouge into the lath. I heard nothing said to Mrs. Smith about making a statement. Mrs. Gillett was there.

ELIAHUE WESTFALL

narrated a conversation which he had with Smith a few days before his death, in which he informed Smith that he believed these parties were in a conspiracy to kill him. Smith said he believed the same thing, and ever since Cargin and wife had been at his house he had lived in constant fear of them, that he expected nothing but that they would kill him. He further said to Westfall that if anything should happen to him (Smith) he wished to have the matter fully investigated, and not let up until they knew all if it took every cent of the property; he believed Cargin was staying there just for that purpose.

On Friday, the 15th, the trial was resumed.

MRS. ALBERT DOANE

testified that they were neighbors of the Smiths, though not intimate; that on the Saturday evening before the murder she and her husband were passing Smith's on their way home from Chesaning and saw Mr. and Mrs. Smith in the door yard; that Mrs. Smith beckoned them to stop, and they did so; they were driving a mule at the time; Mr. and Mrs. Smith came out on the road, and Mrs. Smith said to Mr. Doane, "Did I ever hire your mule to go to Corunna?" Mr. Doane said "No;" she turned to Smith and said: "There, you see you have accused me falsely; I never had his mule, and he says so." Smith said: "That may all be, but Alexander hired the mule and you went with him to Corunna." Then Smith said to Mr. Doane: "Did you ever hear me say that our youngest child belonged to Alexander." Doane said, "No, you never said anything to me about it, but it is the general talk in the neighborhood that it does." Smith turned to Mrs. Smith and said: "There, you see I have never said so, and you have accused me unjustly." Smith then remarked that he couldn't do a thing but that he was watched, and looking towards the house we saw Cargin standing in the door, smoking. Smith pointed towards him and said: "You see, I am watched." Cargin came down to the road and said: "Yes, you are watched. G—d d—n you, that's what I'm here for. I came here for that purpose, and I'm going to watch you till Jane has her rights, and if she can't have her rights by fair means, she shall have them by foul means. G—d d—n you, I've a notion to smash your head all to bits now," and stepped towards Smith, who was standing near the mule. Mrs. Smith, who was standing partially between them, put up her hand and said, "Don't do it, Freem, for my sake; you know that he don't know very much any way." Cargin replied: "No, he ain't got half so much sense as that mule." Smith said, "I don't want no trouble; I'm no fighting man." Cargin replied, "Well, G—d d—n you, I am, and have eat up better men than you, and you had better look out." We then drove on home and they all started towards the house.

CORA ROLFE.

There was much interest manifested when Cora Rolfe, daughter of Mrs. Smith by her former husband, was put upon the stand. It will he seen by her testimony given below that her story is in accordance with those told by the prisoners at the inquest, and she told it as if it had been taught her. The theory of the prosecution in regard to this witness was that this was the case, and that, not having intercourse with those who taught her since their confinement, she did not know that she was at liberty to tell the truth. She testified that she was twelve years old on the 13th inst; that she did not remember when her own pa died; that the first she did remember she was living on Mr. Smith's farm where the murder occurred; that she had always attended school steadily; could read and write, and had studied arithmetic some. She said that on the evening of the murder her pa and uncle Freem were playing cards together, and she and she and her little brother were playing with the baby, which is two years old, and her little brother was seven; that her mother and auntie were about the house laughing and talking as common; that she and her little brother went to bed in the bedroom across the sitting room from the bedroom where her father and mother and uncle and auntie usually slept; that along in the night her mother came in the room bringing the baby in her arms, and laid down on the outside of the bed with the baby; that her mother was not dressed; that she never had done so before, and thought it very strange, but said nothing about it; that she did not go to sleep for some time, and thought her mother did not, and after a time her aunt Julia came into the room and said "the barn is on fire;" that she and her mother got up and went out and the barn was on fire all over, and her uncle Freem was running up and down the road hollering fire; that her mother screamed fire, and her aunt Julia was about there holding the baby, while she and her mother drew the buggy away from the barn into the cornfield; that she did not see her father about, and asked her mother where he was. She said she did not know; that after Mr. Westfall, his son and hired man, and Joe Miller had been there a little while she thought she heard somebody holler, and she thought it was her father in the barn; that it sounded like his voice; that he hollered pretty loud three or four times; that she did not say anything to anyone about it till nearly a week afterwards, and that then she told Mrs. Miller what she thought she had heard; that she was not sure it was her pa's voice, or that it was in the barn; that the others stood close by the barn and she didn't know whether they heard it or not; they didn't say anything about it; that she then went to bed and slept till morning. A figured calico shirt was shown the witness, which she identified. She said it was her Uncle Freem's, and that he had a shirt and neck-tie like it, and used to wear them; that her pa and ma each had a gun and used to keep them in their own bedroom; that her Uncle Freem used to go hunting, but that her pa would never go with him; she said that she never saw any plastering off in her pa's bedroom until the Saturday after the barn burned; that that was the first time she was in the bedroom after the fire; that her uncle used to wear a pair of light pants, and that her pa never had any plastering on the barn floor that she knew of; that he had one sheep skin in the barn hanging on the high beams, and she didn't know of any others; that her father and uncle used to have some pretty bad quarrels, but that she didn't know much about them; that her uncle, aunt and mother were very kind to her, and seemed to think a good deal of the other children, but they couldn't agree with her pa, and

that there were no quarrels to amount to anything until her Uncle Freem got there. The remains of a jack knife which was taken from the fire where the bed laid was shown the witness, and she said she thought it was her pa's knife; she had often seen it, and she thought it was his by the size of the blade.

The witness was asked on the direct examination if she heard any noises in the house, and she said she didn't remember.

FRANK KENYON

a neighbor, being sworn said he saw Alexander on the 12th, the day before the murder, driving past his place with a horse and buggy; that Alexander went towards Hinckley's corners and he afterwards saw the buggy standing there about 1 o'clock on the day before the fire. He did not recognize Alexander till he went out and up to him. He then passed the time of day with Alexander, the latter saying he was waiting for a fellow coming down the road. Mr. Kenyon visited the Smith house on the morning after the fire and testified as to the state of things there as follows: Saw on the bed mussed up bedding, some clothing and an old trunk; there was some kind of a tick, think it was a straw bed; can't say for certain whether straw or feather; we had those things carried out of the room; the object was to examine the room; moved the bed out from the wall; the foot stood to the left of the door; room is 6x8 feet about, and bed-stead about 7 feet long and should say about 4 feet wide, bed filled most of the room, head of bed stood up to the outside wall—where the plaster was off, was on the east side and south side of the room; saw a spot of blood about six feet high near the corner of the door-casing, near the ceiling. It was a large drop, perhaps not so large as a three cent piece; saw blood in different places about the room—on the base-board and on the floor. The most of the plaster was off opposite the back side of the bed towards the head. Those spots of blood were dry on the plastering. There was another place that looked as if the plaster had been off before. This was 8 or 10 by 10 or 12 inches. This spot was to the left of the large place. The blood on the base-board that was wet, was in the crevice at the bead on the board. This was two or three inches long, in the crevice. There was blood in other places, some on the north wall. There was plaster dust about the room. There was an old sheet or two, an old blanket and a quilt on the bed. We looked all over the house and in the trunks for the light pants; examined Mrs. Cargin's trunk; didn't see any trunk which was said to be Cargin's, examined all the trunks we found; found no men's clothes in Mrs. Cargin's trunk; others besides me were searching; we found no men's clothing at all. The marks on the plaster ran in all directions, up and down and crossways. I didn't see or hear of a calico shirt being found.

DR. PLESSNER SWORN.

Some time ago Dr. Clark brought me a piece of plaster with red spots on it. I examined it with a microscope and discovered that it was blood, and not that of a fish, reptile or bird.

The court showed Dr. Plessner the piece of cinder alluded to in Dr. Clark's evidence, and asked him if he could decide what it was. He examined it with a glass and said he would not say for certain, but thought it was blood and not feathers. He said he could easily test it by a chemical process. The court asked the Doctor to take a piece of the cinder and make a chemical analysis of it.

The Doctor retired and soon after returned with the result of his analysis. Said he had dissolved the cinder in muriatic acid, and the result was that he was certain there was blood in the cinder. "There can be no question about it. I am certain." The Doctor explained the nature of the test.

Several witnesses were then called to show that the voices which Cora Rolf had heard coming out of the barn when it was on fire, and which she thought were Mr. Smith's, were of her imagination. By their testimony at the time when she thought she heard voices no human being could exist in the barn.

NORRIS ALEXANDER

was again brought over from the jail and placed upon the stand by counsel for the defense. He testified at this time as follows:

I know a person in jail named Mittemeyer; have had talks with him about this case but not about Cargin; had a conversation with Wm. Freeland in jail. The conversation with Mittemeyer was about a month ago, and I have had no conversation with him since; with Freeland about a month and a half ago; had a talk with no other. The talk with Mittemeyer was not about this murder.

Mr. Clark asked the witness if, about two weeks about last Sunday, he did not, in conversation with Mittemeyer, one of the prisoners in the county jail, state to him (Mittemeyer) that Cargin and his wife came on here from New York knowing nothing about a plan for the murder of Smith; that they came to visit Mrs. Smith, to help sell Smith's property, and to take Mrs. Smith back to New York with them, and that they knew nothing about the murder whatever; that he and Mrs. Smith committed the murder and carried the body to the barn and set fire to the barn and burned it up, and that to prevent Cargin and his wife from knowing of the murder that they were committing they chloroformed them, and that this was a put up job on Cargin and his wife, hoping by so doing to get lighter sentences for themselves, or words to that effect.

Witness answered that he had no such conversation with Mittemeyer; that Mittemeyer told him that for $25 he would get a man to swear that he (the man) slept with him (Alexander) in the hotel on the night of the murder; that he promised to give the money and described the room in the hotel to Mittemeyer, so that the latter could describe it to the witness. Witness said he had no conversation in regard to Cargin.

Mr. Gillett here announced that the testimony for the people was all in, and that they rested their case.

The Defense.

Mr. Clark asked and was granted permission to call Dr. Rice, of East Saginaw, to the stand, before making their opening argument, because that gentleman wished to go away.

DR. RICE

testified as follows: Am a practicing physician and surgeon; have been for twenty odd years; have embraced the study of chemistry; heard Dr. Plessner's evidence. (Cinder was shown. Witness said he couldn't say that it was a cinder of blood.) I don't know that Dr. Plessner has proved that it is blood; it may be or may not be; the iron he discovered may come from some other source; the fact that iron was found in the cinder don't necessarily

prove that it was a blood cinder; if it was blood, the fact of finding iron would only prove that it belonged to a warm blooded animal; there is iron in all warm-blooded animals; I never have discovered iron in straw.

Cross-examination.—The cinder of straw, hay or cloth would not produce the precipitate discovered by Dr. Plessner.

This voluminous mass of most discouraging testimony, the confession of two of the principals, and the intense feeling of the public against the prisoners, rendered a defense most difficult. The task of laying the line of defense before the jury fell to Wm. A. Clark, jr. Mr. Clark is a young man of considerable ability, but he was necessarily circumscribed and hampered by the narrow limits of his side of the case. We give the synopsis of his speech taken by a COURIER reporter, as follows:

Wm. A. Clark, jr., then commenced the opening for defense. He asked the patience of the jury while he endeavored to show them what the defense would seek to prove to counterbalance the appalling and horrid statements made by Alexander and Mrs. Smith. He alluded to the array of circumstances brought forward by the people to show that this man was implicated in the murder, but said that, to find him guilty, the people must prove to the satisfaction of the jury that Smith was murdered, and murdered in the manner alleged. That there was no proof. They say that the deceased was struck with a club. There was nothing about the remains to indicate that death ensued from such violence. The remains show that deceased might have come to his death by other means, and we claim that he was suffocated in the burning barn according to the testimony given at the inquest by the four prisoners. To find Cargin guilty, it must be shown that he killed Smith. There must be no glimmer of doubt in the minds of the jury. Suppose Mrs. Smith and Norris Alexander tell the truth: which, then, of the four implicated ones are guilty? The jury must decide whether Cargin is one of the four who actually committed the crime. The defense will seek to show that Smith was not murdered; that is one of the theories, that he came to his death by accident; that if he was murdered it was by Alexander and Mrs. Smith. Mr. Clark said he could see no motive on the part of Cargin for doing the deed. He thought the statements of Norris Alexander and Mrs. Smith should have no effect on the minds of the jury in determining the guilt or innocence of Cargin. Alexander has indulged in criminal sexual intercourse with the wife of the deceased for years, and the two have long entertained the plan of killing Smith that Alexander might indisputably enjoy the person of Mrs. Smith, and the two enjoy the property which would come to them from the death of Smith. In his statement, Alexander never said "I did this" or "I did that," but always "I helped Cargin" do so and so, and Mrs. Smith was equally disposed to lay the blame of everything upon Mrs. Cargin. They did the deed and now seek to implicate Mr. and Mrs. Smith.

Their original plan was to do the deed and enjoy the property, while, by circumstances which they would shape, Cargin and his wife would be in the State prison at Jackson. Cargin had no interest to derive from the murder of Smith. "Look at Mr. Cargin, gentlemen of the jury," said Mr. Clark, "and say if he looks like a man who would come all the way up from New York to do this deed." He said that the defense would show, by supported testimony, that Mr. and Mrs. Cargin were married in August last, and came on here to take Mrs. Smith back with them to New York, and knew nothing of any scheme for the killing of Smith. Alexander says that on the night of the 12th he went to the house of Mr. Smith for the purpose of killing Smith.

"Liars should have good memories." Alexander was no fool and told a pretty straight story, and told it as coolly and dispassionately as a child would recite the A B C's. He says he went between the hours of 10 and 11 o'clock, got in at Cargin's bedroom window, and that Mrs. Cargin was the first person he saw; that Mrs. Smith came into the room while Mrs. Cargin was there; that Mrs. Smith gave him a $10 bill, and that he struck a match to see if it really was a $10 bill. Mrs. Smith says in her statement that she went into the room and gave some person a $10 bill, not knowing who the person was; that she said nothing and did nothing; that Mrs. Cargin was in the kitchen where the men were playing cards. "These stories do not agree," said Mr. Clark, "and I repeat the old saying, that liars should have good memories." Alexander says that Mrs. Cargin undressed herself and laid down on the bed, and he laid down beside her and went to sleep. Yes, gentlemen of the jury, said counsel, laid down to sleep till the hand of the clock should point to the hour when the blow was to be struck that would send the man who had fed him into eternity. Mrs. Smith says the room was too dark to distinguish anything in the room, too dark to see the map on the wall, but she said that Cargin struck the blow. Mrs. Smith couldn't see the map on the wall, but Alexander could see her run out under Cargin's arm when he had stricken Smith. She says she couldn't see Alexander. Then could Alexander have seen Mrs. Smith as he states? She says she ran out and did not come back.

If the deed had been done as stated by Alexander, Cargin would not have allowed Alexander to vacate the premises at that time and run back to his bed in the hotel and leave him, Cargin, the only one on the ground to bear the brunt of any suspicion that might arise. Men who do such deeds as these stay together and face the consequences together. Alexander and Mrs. Smith have evaded the vigilence of the sheriff and turnkey, and have secretly communicated by notes since their imprisonment. One letter was written by Mrs. Smith on a 25-pound flour sack, covering all of one side of it, and sent to Alexander. This communication no one but the parties themselves had read, and the contents of it were unknown. It was a part of the plan they had laid before the murder. They were to kill Smith and send Mr. and Mrs. Cargin to the state prison for the crime. Alexander plead guilty to murder in the second degree. He thought by so doing he could lighten his sentence. Then in accordance with the plan Mrs. Smith came out and plead guilty. She don't admit of having laid a plan, but had only talked the matter over a little.

NO DEPOSITIONS FROM KATONAH.

The extreme cold of Saturday morning, the 16th, did not prevent the Circuit Court room from being filled at an early hour, and during the forenoon visitors were constantly entering.

Mr. Clark made a motion to suspend the case until he got depositions from Katonah, N. Y., for which he had written. He desired to have it held till Monday afternoon. The testimony he expected was in regard to the good character of the Cargins where they had lived.

Fred B. Sweet, clerk of the county and court, was called to the stand by Mr. Clark to testify that he had received interrogatories from Mr. Clark in this case and had sent them to the commissioner at Katonah, N. Y. Mr. Clark then took the stand and testified that he wrote to the commissioner at Katonah, N. Y., at the time the order was made for him to take testimony of witnessess, and forward by express, C. O. D.; he said he also wrote to Mrs

Cargin's brother about the testimony. He had heard nothing from the commissioner; wrote him several times, but received no reply.

It was on these grounds that the defense wished an adjournment. The court said that the case was costing the county $100 per day, and he did not desire to lose any time in it. Mr. Clark argued that if the depositions should come in when the case had gone to the jury, the court could not refuse to grant a new trial if, as he supposed, the depositions bore witness to the good character of the two Cargins. The court asked Mr. Clark if he had made arrangements for getting the depositions from the express office if, as he had directed, they had been sent C. O. D. Mr. Clark said he had not, but he thought perhaps some one would advance the money and stand the chances of having it refunded by the Board of Supervisors.

The court refused to answer the request and the case went on.

H. B. GIDDINGS

sworn: Am turnkey at county jail; have been during the confinement of these prisoners; I discovered a correspondence that had passed between Alexander and Mrs. Smith clandestinely. I discovered one letter sent by Alexander to Mrs. Smith, but I got it before Mrs. Smith received it. They couldn't pass letters up through the chuck hole. Its possible that letters might have passed from my room in to the jail.

The defense then rested. The court said that if the depositions came from Katonah before the case went to the jury, they should be read. He granted counsel three hours on a side for their arguments.

Mr. Holden's Argument.

At 10:15 Mr. L. C. Holden, of counsel for the prosecution, commenced his summing up of the evidence, a brief summary of which we give. To have stated the main facts in the testimony plainly and without comment would have been enough to startle his hearers, but in the forcible words and dramatic illustrations of Mr. Holden it was simply horrible, and shuddering horror was depicted on the faces of most of the audience. Many who listened to the recital will forever remember it, and in dark and lonely places have the recollection for their company. He said that no argument was necessary on the part of the people, and that in fact none was really possible. An axiom is not susceptible of argument; and the prosecution had reduced their case almost to an axiom by the evidence adduced, there being but few disputed facts. My brother Clark, in his opening of the defense to you last night, stated in startling tones the facts he would prove to you to-day. He proposed to show you first that no murder had been committed; that Smith's death was not the result of violence, but that on the evening in question he went into the barn to remove his fanning mill, and was overcome by flame and smoke and perished there. In the second place he proposed to show to you that Smith was murdered. There was no need of proving that; we had already done so by overwhelming proof. He proposed to show you that the murder was committed by Alexander and Mrs. Smith, and that it was a put up job on their part to shield themselves by accusing this defendant and his wife—so called—of this most sickening crime; that he would show you by a convicted felon, one Mittemeyer, now awaiting sentence to State prison, that Alexander had told him as much, and that Cargin knew nothing of the murder; that to prevent Cargin and his wife from knowing of the crime, Alexander and Mrs. Smith administered chloroform to them, committed the murder, carried the

dead body to the barn and then burned it there. All this he promised you upon his word, and I admit that he had done so, it would have been a very good defense. But has he done it? Where is Mittemeyer? Where is the evidence that chloroform was given to Cargin, where is the evidence that even tends to show that Cargin was not a principal actor in that most appalling tragedy? In short, where is that volume of evidence to-day that thundered so loudly in the index last night? Clark referred you to the lamb-like countenance of Cargin, and said it was impossible for any one guilty of the crime we charge, to sit here and listen to this sickening evidence and remained unmoved. But I submit to you that none but a most hardened wretch could present the bold and defiant look that you have seen on this defendant's face during the past week. No one who has a scintilla of feeling natural to man, could sit and listen to the evidence adduced here and remained unmoved. Yet Cargin has done it from the first, proving that he is at least capable of committing this crime.

If you believe the confessions of Alexander and Mrs. Smith, then you cannot but find the defendant guilty of murder in the first degree. But Clark says it is all false and put-up job. Let us see if it is not corroborated. Major Rogers tells you that on the night in question he heard a noise at the window of the room adjoining his, in which Alexander slept at the hotel. That it woke him up, and in the morning he saw the tracks of a man in the garden, and traced them to the fence, and upon the fence by the sand to the shed, and then to the window of his room, and that in the room was a quantity of wet sand by Alexander's bed, which shows conclusively that he was out of his room that night. Also, we have shown you that he was seen going toward Smith's after he had retired. Is he not then corroborated thus far? Yes; and the testimony which Mittemeyer offered to produce for $25 must have fallen to the ground had he produced it. Alexander told you that he found the window up at Cargin's bedroom as per agreement, and went in that way; that Mrs. Smith came into the room and handed him a $10 bill, as per agreement; that he took out a match, scratched out, and when he saw that he was not being deceived, put the bill in his pocket, and Mrs. Smith has told you the same. We have shown you that on the following morning he offered a $10 bill at the hotel in payment for his accommodations there, and upon being told by the clerk that he could not change it, Alexander said he had no other money—another incident corroborating the confessions. Alexander further tells you that Cargin came into the room and showed him the bludgeon which he had selected to accomplish his unholy purpose, and asked him how it would do; then put it under the bed, after which Alexander lay down upon the bed by the side of Mrs. Cargin and slept, exhibiting there, as he tells you, the same degree of coolness which has characterized this fiend in human form through all this trial. During the evening Cargin and their victim were playing a social game of cards in the adjoining room. In this Alexander and Mrs. Smith are corroborated by the little girl. After Smith had gone to bed as usual by the side of his wife, Cargin stood watch while Alexander slept, and as the hour, low twelve, arrived, Cargin shook Alexander and said, "Come, Nock, now is the time." Cargin again took the cudgel and Alexander took the strap, and they crept stealthily to the room of their sleeping victim, but mark you here, as they were about to enter, Mrs. Cargin dropped something on the floor which Alexander says sounded like bullets, and Smith roused partially to consciousness. Westfall tells you that bullets were found in Mrs. Cargin's room scattered on the floor, as though they had been dropped. As

soon as Smith was again unconscious in sleep, this brace of midnight assassins again crept toward the bed where Smith lay beside his wife, who was awake, patiently waiting for him to be brained in his bed by her side. Cargin struck the blow which landed on the head of his sleeping victim, as Alexander says, with a sort of dull thud, and there followed one of the most hellish and dreadful scenes ever enacted in any bed-chamber. Mrs. Smith sprang from the bed, grabbed her baby, and gracefully retired to the adjoining room. But Smith would not die so easily. They struck him a second blow, and Cargin called to Alexander for the strap; the victim rose in his gore and grappled in deadly struggle with the assassin Cargin, crying "Oh! for God's sake, boys, don't murder me." But they would not heed his cry; and Alexander, seeing Cargin in the power of Smith, and upon the bed, grabbed the club and struck Smith twice. Cargin, with a demon voice, said, "Give me the club; you can't strike hard enough," and Cargin dealt him several merciless blows upon the head and poor Charlie lay weltering in his gore upon the bed. The strap was then quickly adjusted to his neck, and Cargin twisted at the ends, and as the death gurgles ceased Mrs. Cargin said, "It is gone!" Yes, the life of poor Charlie was gone. The work which she had brought Cargin here to do was done. They then needed to cover up the traces of their guilt. The body was carried, together with the bed, to the barn by Cargin and Alexander, while the women—may God forgive the appellation; they are not women but fiends in human form—beset themselves to cleaning up the blood of the murdered man and tearing the plastering from the walls, and carrying it into the barn in the dish-pan, together with the chisel and saw, with which they removed the plastering, all of which were found by Smith's charred remains the following morning, corroborating the facts of the confessions. Also Cargin changed his bloody shirt and pants, and carried them, together with the baby's clothes, from the cradle to the barn, and threw them on the funeral pile. Alexander tells you that in going out to fire the barn he went ahead of Cargin five or six feet; that he wore at the time a high crowned hat, and was dressed in dark clothes; that Cargin had on neither hat, coat or vest; that they went out of the south kitchen door, and that the baby, poor thing, was crying in the house. Joseph Miller, in returning from a friendly visit to his girl that night, tells you that as he passed Smith's house the baby was crying, and that he saw two men corresponding in size to Alexander and Cargin come out of that door and go towards the barn, dressed as Alexander has described, and that within twenty minutes he heard the alarm of fire and looking out saw the barn that he had just passed enveloped in flames. The little girl tells you that she had often played with her father's knife, and she recognizes this one here in court as his. It was found the next morning among the ashes of her father, having been carried there by Cargin in his pants, as stated by Alexander, another strong fact of corroboration. Alexander has told you the plan was not to brain him, but to strike him senseless, then strangle him to death with the strap, that there might be no blood to tell the tale of the horrid crime. In this they failed, their work was overdone, and the charred and blackened blood cinders of the victim are before you, and Smith's blood has told its story to you through the science of the chemist, Plessner; and here is still the blood upon the plaster which one of these fiends of hell, Mrs. Smith, tried to scrape from the walls of her bedroom with the scissors. After the barn was fired Alexander returned to his hotel and again lay down to pleasant dreams. Cargin was seen to wear a light colored pair of pants the day before the tragedy, also a calico shirt with figure like this cuff and tie,

yet they have not been seen since the fire, though Kenyon tells you he made thorough search for them throughout the house and in the trunk and drawers of Mrs. Cargin. Their absence corroborates the confessions. Witnesses say they found charred remains of pants cloth and of calico in the barn. The former were the pants of Cargin, the latter his shirt, or perhaps the dress of the baby. Here it is now, the ashes of the baby's dress, mixed with the blood cinder of its father, and yet this worthy innocent of Mr. Clark's sits by unmoved—inhuman monster. Mr. Clark tells you Cargin had no motive which could prompt him to do this act. He said that none of you, nor even himself, would do the like unless the $500 were paid in advance. I undertake to say that none of you would do the like if the whole world were paid in advance; none but the murderer Cargin and his accomplices could do the like, paid or not paid in advance. Mrs. Cargin is shown by the confessions to have gone from here to New York solely for the purpose of finding some man to do this act for which Mrs. Smith agreed to pay $500. Cargin was found, and negotiations by letters were carried on between the Cargins in New York and Mrs. Smith and Alexander here, from June till the middle of August, when Cargin, becoming impatient, borrowed money of the Otis brothers, and came on to do the work and receive his pay. No motive? Five hundred dollars is a sufficient motive for such a monster. Mrs. Smith mortgaged her farm to pay Cargin. The little girl tells you that from the time her Uncle Freem and Aunt Jule came on there was trouble in the camp, and you have heard that Cargin told Smith in the presence of Doane and his wife that he came here to watch him, and that he had eaten up better men than he was, and that he would not leave Smith till Mrs. Smith had her rights, either by fair or foul means. And Mrs. Cargin has been shown to have made harsh threats towards Smith, at one time saying to his mother: "I would like to wash my hands in his heart's blood to my elbows!" When the barn was nearly burned down this pile of clothing and straw and the body could be seen upon the floor, and Cargin threw pieces of wood upon it, feeding kindling that no trace of his crime might remain there. Pretty cool for one who was just recovering from Mr. Clark's dose of chloroform, wasn't it? They have tried to show by medical experts that no heavy blows were given Smith upon the head, but in this they have failed. There was not sufficient left of the skull to determine whether it had been crushed or not. Who knows but that they struck such a blow as to bury the bludgeon in the brain, and who knows whether the skull was fractured at all? The doctors say they cannot tell from the remains. Clark said we must prove the *corpus delicti*, or body of the offense, that Smith is dead. Dr. Clark says that three years ago he reduced a fracture in the tibia, or large bone of the left leg below the knee of Smith, and in the ruins of the barn where Alexander tells you he and Cargin laid Smith, this bone which I hold in my hand was found, and the doctors tell you it is the tibia of the left leg of a man, and here is plain to be seen the result of the fracture which Dr. Clark reduced three years ago. Truly, the bones of the dead rise up to rebuke the living, and it seems to me as though Providence had so ordained it that this earmark of indentification might remain, which points so clearly to the fact that the remains there found were those of Smith, again corroborating Alexander's confession. * * * *

Mr. Holden said that he never yet saw a doctor put upon the stand as a witness but that the opposite side stood ready with a score of doctors to prove that all they had sworn to was false, and that the first physicians themselves were fools. But in this case out of a number subpœnaed, some of whom were from

the university at Ann Arbor, only one, Dr. Rice, had concluded to take the stand to deny or controvert the medical testimony of the people, and that Dr. Rice made summary work of it, by saying substantially that he knew nothing about it and could not tell, which doubtless was strictly true. Mr. Holden then entered into the testimony of Drs. Plessner, White and Clark, clearly showing that their theories were fully sustained by the facts in the case, and paid complimentary mention to the chemical skill of Dr. Plessner. He also characterized the defense in the case as a "fishing" one, and said: I sometimes have been caught in a trial where I had no case, and then I go fishing, hoping to get a nibble, the defense has been fishing all through his case, and I sympathise most heartily with my brother Clark, and really feel sorry for him that he has no facts or theory upon which to work. (Mr. Clark smiled in grateful acknowledgement for the sympathy thus bestowed.) Mr. Holden continued by saying that the story of Alexander had been fully corroborated by Mrs. Smith, who had not seen him since the tragedy, they being confined in separate cells. That the facts and circumstances corroborated the confessions fully, and that without the confessions there was ample evidence to convict Cargin of the murder. The defense seemed to look happy and hopeful when the evidence showed that the charred remains of poor Charlie were found five or six feet from the bed on which Alexander said the dead body was left by them. But to me it was a horrid thought, only equaled by the one which took possession of me when Alexander testified to his gathering up the baby's clothing from its cradle and carried them to the barn dripping with the gore of its father and threw them upon his remains; there to be burned with him. A horrible thought. Oh, can it be that Smith, whom they sought to stun while sleeping, and who rose up in spite of the heavy blows dealt him upon the head by Cargin and in dying agony confronted and contended for his life with those bloodthirsty midnight murderers in his bed-chamber, was not yet dead when they carried him to the barn; that the sense of feeling had not yet fully fled when the flames which these murderers kindled struck him, and there in death's throes doubly horrible threw himself from the bed and perished in the flames? Oh God, forbid that such should be the case! At this juncture many of the audience and the jurors were deeply moved, and strong men gave vent to their aching hearts by tears. Cargin remained wholly unmoved, the same as at all times during the trial.

Mr. Holden, resuming, said he did not care to dwell upon the fact that Cargin claimed to have seen Smith go into the barn after the fanning mill, for the blood in the bedroom, and other facts, fully removed the possibility of the truthfulness of that statement, and fixed the crime upon him beyond a doubt. That he was guilty of murder in the first degree, for which the statute says he shall be imprisoned for life. The court has no discretion in the matter. Murder in the first degree is the highest crime known to our law except treason, and is defined in plain terms as the unlawful taking of human life with malice aforethought or premeditated design. Cargin had designed to take the life of Smith since he left Katonah, N. Y., last August. Murder in the second degree is punishable by imprisonment for life or any number of years, giving the court discretion in the matter in passing sentence. It is less atrocious than murder in the first degree, because it does not include a premeditated design to unlawfully take the life, but occurs when the life is taken; for instance, in a broil in which the assassin has not intended to take his opponent's life, but in trying to inflict great bodily injury does harm that culminates in death. Can you say that Cargin did not form a long time prior

to September 12th, a design to murder Mr. Smith, for which he was to receive the $500? No; and to say that Cargin is not guilty is to say to him, "Well done, thou good and faithful servant, go and do likewise whenever occasion may present itself." Those words were not originally addressed to such as he. Cargin is guilty of murder in the first degree, and we demand a verdict of such in the name of society whose peace he has violated, in the name of the law which he has offended, in the name of the memory of Charles Smith whose life he has taken. We adjure you in the name of every obligation public, private, social, moral and religious, that you let no consideration turn you aside from the duty which you owe to your God, your neighbor and yourselves, nor prevent the uplifted arm of the law from falling on the guilty head. There is no law in our State, which is perhaps more humane than just, adequate to the emergency, nor has the poet Milton with all his use of words portrayed a hell with molten brimstone hot enough to melt down the fetid marrow in his bones and cleanse him of his sin though he broil eternally.

Mr. Holden concluded his argument at 11.40, and Mr. John Hurst, of counsel for the defense, opened his address to the jury, and continued with a forcible and impassioned plea for the jury to deal justly with the prisoner.

On Monday, the 18th, at 2 o'clock, the trial was resumed, and the interest was apparently uninterrupted by the break from Saturday noon. The room was as full of spectators as on any day of the trial, and contained a greater proportion of ladies than usual, all seemingly deeply interested in the progress of this remarkable investigation. Cargin was the only one of the prisoners present, and he presented his usual unmoved demeanor. Mr. Hurst concluded his argument. It was a most eloquent plea, and he may go down to his grave with the satisfaction that he did all in his power to avert the fate that was pursuing Freeman Cargin.

He was followed by Wm. A. Clark, who also made a powerful speech.

Mr. Gillett then argued the case for the prosecution.

On Tuesday morning, the 19th, a full house listened to

The Judge's Charge.

GENTLEMEN OF THE JURY: The information in this case charges that the respondent did, in the Township of Chesaning, in this county, on the 12th day of last September, wilfully and feloniously, with malice aforethought, kill and murder Charles Smith. The case has occupied your attention for over a week, during which time you have witnessed large crowds in attendance upon the trial, and possibly some of you may have felt the popular feeling of excitement which necessarily attends the trial of such cases. As I have warned you heretofore to guard, lest your minds might be affected by matters occurring outside of the case, so at this stage of the proceedings it may he proper again to give you this caution, that you are here as jurors to determine the facts according to the evidence submitted to you on the trial of the cause. It becomes your duty as jurors to lay aside all bias and prejudice, all feeling or sympathy for or against any party accused of crime, or any other person, and determine only the questions submitted to you without fear or favor, being governed by the law as given you by the court, and finding the facts according to the evidence submitted upon the trial of the cause. This defendant, charged with this heinous crime is by the law presumed to be innocent. This presumption of innocence he carries with him throughout the entire case, and is to be borne in mind by you in passing upon the questions of fact, and their relevancy to the issue in this case. The people must, by proof, overcome the

presumption of innocence, and the proof must be of such character that it removes from your minds all reasonable doubt of his guilt before you are authorized by your verdict to find him guilty; and it must not only be consistent with his guilt, but also the fact found by you must be inconsistent with his innocence before you can find him guilty. No presumption can be found against him either as to his character, reputation or any other fact, but on the other hand, every presumption is in his favor. He is presumed to be a man endowed with ordinary understanding, except so far as the contrary may be shown, having the usual moral sentiments which we find in human beings, having the usual moral character of his fellow men, except so far as the contrary may be shown by the evidence in the case. Bearing in mind the presumption of innocence which attaches itself to him throughout the case, it becomes proper for you to consider the nature of the charge thus made against him. Murder, by the common law, which is not changed by our statute, is where a person of sound memory and descretion unlawfully kills a reasonable creature in being in the peace of the state with malice aforethought, either expressed or implied. This definition which I have given you is a very important one, because you can leave out of it no word without essentially destroying the character of the crime. It must have been committed with malice aforethought in order to constitute murder. Malice does not denote what is sometimes supposed by people to be the meaning of the word malevolence or unkindness of the heart. It does not denote anger, hatred or revenge, but as used in the law in connection with this definition of murder it rather indicates that evil intent, from which flows any unlawful or injurious act committed without legal justification. Malice aforethought is a stronger and more intense expression of the wickedness of the heart of the individual in committing the act that the "malice" itself implies. The words "malice aforethought" always are used to indicate an evil intent from which flows some unlawful act. If the crime lacks the malice aforethought it is not murder, and the homicide thus committed would be either manslaughter, or justifiable or excusable homicide according to the facts. Then before you can find the defendant guilty you must have found that the act committed was done with malice aforethought, that is with a wicked intent from which arose the unlawful act thus committed by him. Our statute divides the crime of murder into two degrees and it becomes your duty to ascertain the degrees. "All murder which shall be perpetrated by means of poison, or lying in wait, or any other kind of willful, deliberate and premeditaded killing, or shall be committed in the perpetration or attempt to perpetrate any arson, rape, robbery, or burglary shall be deemed murder in the first degree." "All other kinds of murder shall be deemed murder in the second degree." Now, a careful examination of this first section that I have read to you, indicates that in the minds of the legislators, certain kinds of murder were of a more heinous offense, or a higher degree of crime than others. "Murder which shall be perpetrated by means of poison, or lying in wait;" this certainly would require some degree of deliberation, time for reflection and opportunity to change the mind when once formed. "Or any other kind of deliberate, willful and premeditated killing, also any murder that shall be committed in the perpetration or attempt to perpetrate any arson, rape, robbery or burglary shall be deemed murder in the first degree."

Now, in this case, in order to find the murder in the first degree, you would be necessarily required to find that the killing was willful, deliberate and premeditated, because it is not claimed on the part of the people that it

was perpetrated by means of poison or lying in wait, or that it was done in any attempt to perpetrate the crime of arson, rape, robbery or burglary.

Now, deliberation requires time for reflection after the intent is formed in the mind and before the act is consummated. The length of time may vary according to the different circumstances of the case. But a sufficient time must necessarily have elapsed after the malicious intent is once formed in the mind—after the malice aforethought from which flows the unlawful act is once conceived in the heart—for reflection, so that the party may be said to have acted coolly, and with deliberation in the performance of the deed. So that in case should you find that the crime of murder had been committed by the respondent as charged, you could not convict him of murder in the first degree, unless you found that after he had formed the intent to kill with malice aforethought a sufficient time had elapsed for him to reflect upon it so as to act with deliberation, with premeditation, and coolly. If the instant the intent to kill is formed in the mind of the individual the act is executed by him, it is not murder in the first degree, but is murder in the second degree if there be malice aforethought.

As jurors it becomes your province to pass upon the facts in the case, and whatever shall be said in the course of my charge to you upon the evidence in the case, I desire to say to you now that it is not my intention to give you any opinion whatever, with regard to the belief on the part of the court as to whether the facts have or have not been established by the evidence. It is your province, and solely your province, to determine what evidence is worthy of belief; what testimony carries to your mind the conviction of its truth, so that you may be said to receive it as establishing a certain fact in the case. It is also your province to say what those facts establish in your minds conclusively, or beyond any reasonable doubt.

Now, to establish in chief the crime committed, the people rely upon the testimony of two accomplices, who, by their own statements, are guilty of the crime alleged against this respondent. They are self-confessed murderers. I have been asked to instruct you, on the part of the defendant's counsel, that you ought not to convict upon their testimony, unless it is corroborated. I have already told you that it is your province to pass upon questions of fact, not the province of the court, and it is for you to determine what evidence is worthy of belief and what is not, yet such advice is proper to be given you. You are not likely to convict any person upon the testimony of self-convicted murderers unless their testimony be in some manner corroborated. You ought not to convict any person upon the uncorroborated statement of a self-convicted murderer. But the corroboration that you might reasonably expect to find will depend upon the circumstances of the case. Every case will present peculiar facts, and upon those facts, as presented by the particular case, you may look for corroboration to a greater or less extent.

The first question that presents itself to you to be found as a question of fact, is whether or not Charles Smith did, on or about the 12th day of last September, come to his death by violence? In looking at the evidence in the case, as presented by other witnesses than the two accomplices, we are informed by certain witnesses that about the hour of two or three o'clock on the morning of the 13th an alarm was given, a cry of fire, and the witnesses, upon going in the direction of Smith's, discovered his barn to be on fire. The witnesses have detailed to you the manner in which they found the burned building and the extent of the flames. Certain witnesses arrived soon after the alarm was given, and the people claim to have established the fact that it

was then impossible for any person to have entered the barn after the witnesses arrived. They claim the barn doors were closed at that time, and after the fire had sufficiently progressed to burn away the doors, there was discovered upon the barn floor a heap of something then unknown to the witnesses, having the appearance, as one witness describes it, of being a bale or bunch of straw. After the barn had been consumed, upon searching the ruins there was found the body of a human being. You have heard the testimony of Dr. Clark, who seems to have been the only medical man present soon after the discovery of this body. He has given a full description of the manner in which the body was found by him and the condition of the body when found. It was so destroyed by fire that it was no longer recognizable by the countenance or form so as to determine who the person was, but as one means of identity the people claim to have shown that this was the body of Charles Smith from this fact: that prior to this time, some three years ago, Charles Smith had broken the left tibia, that is the large bone below the knee, and that the bone had been reset by Dr. Clark. Among the bones found in the ruins Dr. Clark informs us was a left tibia that had been broken, and he has brought in portions of the bone which he claims show, to a medical mind, that the bone at some time had been broken and had been joined together in the course of nature, making a slight enlargement of the bone. This is one of the circumstances by which the people claim to have identified the body as the body of Charles Smith; that Charles Smith has never been seen alive from that day to this, there is no question. You have also heard the testimony of other witnesses, showing that he was alive on the night of the 12th, and was last seen about the hour of dark while going to his house with his team, drawing a load of wood.

From these facts, and from other facts I have not now time to enumerate, the people ask you to find as a fact, established beyond all reasonable doubt, that Charles Smith's body was found in the burning ruins the morning after the fire. If that fact has been proved to your satisfaction, then it becomes necessary to inquire how he came to his death. Was it by violence? Again, you have examined the testimony of these witnesses as to the manner in which the body was found, lying on its back we are informed, near this pile, whatever may it have been. It had been so destroyed by the fire that no marks of violence could be distinguished upon the body, if it had ever received such violence. Near the body was found the remains of a straw bed, as one of the witnesses informed us, the straw being fine, as if it had been chopped or broken by use in a bed, and the ashes disclosed what appear to have been garments of some kind. Some of the marks upon the ashes indicate that the fabric was cotton fabric. Buttons were found near the body, and a pocket knife, such as was left of it, part of the handle being destroyed, was also found near the body, and not far from the body was found a cinder of some size. You have heard the description given of that dark cinder given by Dr. Clark. This cinder was supposed at the time to be blood cinder. Dr. Plessner, who claims to be a practical chemist and physician, having made an analysis of the cinder, brought the result into court and exhibited it to you. He informed us that he could not without such an examination tell whether it was a blood cinder or not. It had the appearance of a blood cinder, but other articles might also have the same appearance. Blood, however, contains iron, and a cinder formed by burned blood must necessarily contain iron, the iron not being destroyed by the action of the fire. By analysis of the cinder then, it could be determined whether or not there was iron in the cinder.

Such an analysis was made, and he states to you that as the result he is satisfied, he is certain, that the cinder contains iron, and then it is for you to say whether, having the form it has, its peculiar appearance, it being evidently a cinder from some substance that was reduced to a liquid state, if not a liquid, whether or not this cinder is a blood cinder? You have to use your reason to determine the fact. What other substances could there have been in the barn at that time, so far as the evidence discloses, which, when burned to ashes, would contain iron? We are informed by the experts that it is not straw, nor wheat, nor grain, because they would not contain the iron found in this blood cinder. If. then, you are satisfied that this is a blood cinder, it becomes a very important fact. How came the blood in such close vicinity to the body? Is it the blood of a human being? and if so, does that account for the death of Charles Smith? Did he come to his death by violence? If you are satisfied from these facts, and other facts in the case, that he came to his death by violence, it then becomes proper for you to consider at whose hands. Having arrived at this stage of the case, and determined as a fact that Charles Smith came to his death by violence, it becomes a proper matter to consider the testimony of Mr. Alexander and Mrs. Smith. They inform us that Alexander had been living prior to this time with Mr. Smith, at work for him on different occasions during the past four years; that a criminal intercourse had been carried on between Mrs. Smith and Mr. Alexander for some time; that they had desired the death of Mr. Smith; that they had plotted his death as long as two years ago; that each had made remarks to the other indicating a desire and a willingness to aid in accomplishing his death, but no direct steps had been taken by either of them to perpetrate the murder then formed in their minds. They both inform us that they had not the courage to carry out their plans or desires. Sometime in the spring of 1876, a sister of Mrs. Smith, Mrs. Cargin, came to Chesaning on a visit and stopped with Mr. Smith. At that time we are informed that Mrs. Cargin was taken into their confidence, and she stated that she could procure some person to do away with Smith, or to carry out their plans, and would do so for $500. She afterwards returned to her home, in New York, as we are informed, and letters of some kind passed between Mrs. Cargin and Mr. Alexander and Mrs. Smith, by which they were informed that she was ready to carry out the design if the money was forthcoming. Subsequently in August, the defendant and Mrs. Cargin went to Chesaning and stopped with Mr. Smith. Alexander was also at Mr. Smith's about that time, as we are informed. They went to Corunna together, and Mrs. Smith then placed a mortgage upon a farm that she owned in Maple Grove to raise money to carry out their avowed purpose; that $40 of the money so obtained upon this mortgage was paid by her to Mr. Cargin; that a few days before the death of Smith Mr. Cargin met her and proposed to carry out the plans for $500, and she proposed to pay it; and that on the 12th of September last the definite plan which was afterwards carried out was formed between Cargin and Alexander while they were riding in a buggy around the section upon which Mr. Smith lived. It was then planned, as we are informed by Alexander, that on that night Alexander should return from the hotel in Chesaning, where he was stopping, to Smith's; that a window would be left open for him; that he should go into Cargin's room and remain there, and that some time during the night the murder should be accomplished; that he came in accordance with the plan, and he details to you the manner in which he escaped from his room unbeknown to the persons occupying the hotel; that he walked from the hotel to Smith's after dark;

that he crept into the bedroom of Cargin through the window; that he there met Mrs. Smith and received at her hands $10; that Cargin came into the room and showed him a club which he described to you; that he lay upon the bed and went to sleep until about 12 o'clock, when he was awoke by Cargin; that Cargin then gave him a strap which he had been previously informed he was to hand Cargin at the proper time; that Cargin went ahead carrying the club in his hand, and Alexander followed, into the room occupied by Mr. Smith; that Smith was then lying on the back side of the bed asleep, his wife, Mrs. Smith, lying in front; that some noise partially awoke or startled Mr. Smith as they were going into the room; that they retreated and waited until he had again become sound asleep, when they approached the bed, and Cargin, he says, struck Smith two blows with the club upon the head, and Mrs. Smith, at his request, immediately got up from the bed and went out of the room. She came back again to remove her child, then lying near in a cradle, and went from the room again; that instead of stunning Smith by the blows he was aroused, and arose from the bed and grappled with his assailant Cargin; that a struggle followed; that Alexander in the struggle picked up the club which had fallen to the floor and struck Mr. Smith two blows upon the head; that he at Cargin's request handed him the club; Cargin having freed his right hand, again struck Smith upon the head two or three times with the club, felling him; that he dragged him into the bed; the strap was handed him by Alexander, passed around the throat of Mr. Smith, and he was strangled; that they then took the body, with the bed upon which he was lying, and carried it to the barn and laid it upon the barn floor, Alexander going ahead carrying the feet, and Cargin behind carrying the head; that they went with it into the barn, and left the body with its head to the east and the feet to the west upon the bed; that they afterwards took into the barn the plaster which they removed from the wall, having discovered blood upon it; that they also placed near the bed the clothing worn by Mr. Smith, also the light pants and calico shirt worn by Cargin, also a shirt worn by Alexander. Alexander informs you that he then went into the loft and threw down a quantity of straw, perhaps half a ton, upon the body; that they then, each of them, took a match and set fire to the barn, one at the east and the other at the west end. Alexander informs us that he then returned immediately to the hotel at Chesaning and went back to bed. The alarm of fire was given by Cargin, and we have the testimony of other witnesses as to what occurred after this. Now, gentlemen, if these facts are true, where would you expect to find them corroborated? You would hardly expect, as reasonable men, that some eye witness was present, standing by the bedside of Smith at the time the blows were struck, to corroborate the testimony of Alexander and Mrs. Smith upon that important point. It is not to be expected that midnight assassins commit their deeds in the presence of witnesses who take no part and have no connection with the transaction. But you must look for corroboration, and you must expect to find it in that part or portion of the statements as made by these witnesses, where apparently some other person, whose testimony may be relied upon, would be likely to have some information.

Did Alexander and Cargin have the meeting on the 12th day of September last? Now, again, reviewing the testimony of Alexander, we find by his statement that they met on the corner near Smith's house where he waited for Cargin until he then came up and then they rode around the square. Two witnesses saw Alexander there while he was waiting. Two witnesses saw Cargin come and get into the buggy. Are you satisfied with that corroboration?

Are you satisfied that there was a meeting between Cargin and Alexander on the afternoon of the 12th day of last September, and that they had an opportunity thus to make such arrangements as were afterwards carried out? Again did Alexander go from the hotel to Smith's on the night in question? Naturally you would expect that some person might have met him or seen him, either as he was going out of his room or coming back, and upon that point you have the testimony of a witness who says he met Alexander on this night going in the direction of Smith's. You have the testimony of Rogers that he heard some person return to the hotel about the hour that Alexander claims to have returned. Are you satisfied then, from this corroboration, that Alexander did, on that night, leave his room at Lefurgey's where he was stopping, go to Smith's and afterwards return as claimed by him? Again, we are told by Alexander the manner in which this deed was performed. Without again rehearsing the horrible tale as told by him, does it not suggest itself to your mind that there must have been some evidence of this struggle if it occurned in the manner detailed? What are the evidences of its truth? We are told by witnesses who examined this bedroom the day after the occurence that there was no bedding found upon the bed; that a large quantity of plastering had been removed from the wall and that the marks upon the lath indicated a fresh removal; we are told that spots of blood were found still remaining upon the plaster not removed; we are informed by a witness that within 15 or 20 minutes before the alarm of fire was given by Cargin, while he was passing Smith's he saw two men come out of Mr. Smith's house and go from the kitchen door into the barn. Now, gentlemen, is this true? It was evidently their plan, if such a one was formed, to accomplish this deed when no eye would be likely to witness it, and no living person could tell what had transpired in the house except those who took part in it. But yet, strange to say, if this deed was accomplished in the way in which it has been detailed to us, there was a witness, who by chance or providentially, passed by the house on the night in question while returning from a visit to a neighbor, immediately preceding the setting fire to the building. According to the testimony of Alexander after they had removed the body to the barn, and had taken the plaster and bed clothing and threw it upon the body, they then returned to the house and removed a portion of their own clothing, and then for the last time he and Cargin went back to the barn, carrying with them the shirt and pants worn by Cargin and the shirt worn by Alexander. At that time they set the barn on fire, and within 15 or 20 minutes from that time the alarm was given, for Alexander tells us he had gone about a mile when he first heard the alarm given. Now, this witness, Joseph Miller passed by this barn just about the time that they were then for the last time returning to the barn with the clothing in their hands, if Alexander speaks the truth.

Now the testimony of Joseph Miller shows that two men were engaged in this nefarious business, and that those two men did go to the barn about the time when it was set on fire. Does it so corroborate the testimony of Alexander that you believe it, and it removes all reasonable doubt from your mind as to its truth? I submit this as a question of fact.

Again, Mrs. Smith informs us that after the struggle commenced with her husband she picked up the child and went to the room occupied by the other children in another part of the house. Now we are informed by Cora Rolfe, her daughter, (who is of the age of twelve and therefore may be supposed to know of things that occurred that night, although perhaps not everything, which would have been apparent to a full grown person,) that her

mother did come to her bed on the night in question and she awoke her while coming to her bed, and that she lay awake until her aunt a few minutes afterwards came and told her that the barn was on fire. This is a circumstance submitted to you for you to say whether or not that sufficiently corroborates the statement of Mrs. Smith, so that you are to believe she has told the truth. There are, perhaps, other facts which it would be proper for me to comment upon, but I think sufficient has been said upon this point. You are to look for corroboration in such matters, as from the very nature of the case corroboration is possible, but where, from the very nature of the case, the facts stated are of such character that no other witness could have had any knowledge upon the subject, you are not to expect corroboration. But again, as I told you before, the fact found by you must not only be consistent with the guilt of this defendant, but those facts must be inconsistent with his innocence. And although you find from the facts that he may be guilty, yet if any fact found by you is inconsistent with his guilt, or such facts are not inconsistent with his innocence, it would be your duty to acquit; otherwise you would not be giving the defendant all reasonable doubt, or the presumption of innocence which attends him throughout the entire case. Now, I call your attention to some facts which are claimed on the part of the defense: First, they say this deed may have been committed by Alexander and Mrs. Smith substantially in the manner detailed by them, but that they have substituted the name of Cargin as the perpetrator of their own acts; in other words, that they are telling you the facts substantially as they occurred but at the same time falsely charging this defendant with having taken part in the transaction. Now, this ought to be examined very carefully by you, because, while it is very difficult for a witness to manufacture a story of this character out of pure imagination without any facts for a foundation, yet frequently witnesses are able while telling the partial truth to falsely charge a third person with having had some share or connection with the transaction, and it is difficult with the most rigid cross-examination to determine whether or not such portion of the story is true or false. If Alexander and Mrs. Smith committed this act alone, and no other man had any knowledge of the transaction or share in it, if that be true, how do you account for this fact, if found by you, that twenty minutes before the alarm was given two men were seen coming out of the house of Smith and going to the barn afterward? Is that fact consistent with the theory that Mrs. Smith and Alexander alone may have perpetrated and accomplished this act? Still another question suggests itself to your mind. May it not be that Alexander had an assistant, some unknown man—some person or persons whose name has not yet appeared in the transaction? Upon that point, although the counsel has not commented upon it, I call your attention to the evidence of Mrs. Lefurgey, that after the hour of ten that night, as she went out of the back door she saw some person standing in the yard with his hand raised; she saw his white shirt and white sleeves. We have no information in this case who such person was. The testimony is entirely silent, and who it could have been it is impossible for us to know. This fact may have no connection whatever with this case; it may have been some person who was hanging around the building for some unknown purpose, or it may have been, as urged on the part of the defendant, some accomplice of this man Alexander, and they may have met about that time; but if they did, how can it be true that that the witness who met Alexander saw none with him? Did Alexander walk alone from Lefurgey's to Smith's?

This is a question of fact submitted to you as to whether it is consistent with the theory that two men, Alexander, with an accomplice, could have possibly gone from the hotel where he was stopping to Smith's on the night in question without being seen by the witness who met Alexander. Again, if the accomplice or unknown person was assisting Alexander in accomplishing this deed, would not the struggle which necessarily followed, as indicated by the marks and the blood upon the wall, and upon the clothing which was afterwards destroyed, and the removal of the plaster from the wall, have necessarily awakened any person occupying the adioining room then occupied by Cargin and his wife? That is a question of fact submitted to you from the evidence in the case, and the question is, whether there is any reasonable doubt that such a person occupying that room would have been awakened that night? In answer to this, the defendant's counsel suggests that chloroform may have been used, and may have been so used on the persons of Mr. Cargin and his wife that they became entirely oblivious as to what transpired at that time, and he suggests very properly that if there is reasonable doubt upon this question the benefit of that doubt should be given to the defendant. That is very true. In examing this part of the case, it is to be also considered in connection with the subsequent conduct of the defendant, was there any suggestion made by him during the night in question that he had been chloroformed, or that he felt the effects of chloroform, or of anything else, or any suggestion made by him that the bed and bedding had been removed from the room occupied by Mr. Smith, or that there was any suspicious circumstances connected with the transaction? These are all facts to be passed upon by you, and for you to determine of what they convince you beyond all reasonable doubt. Finally, the defendant suggests that possibly Smith did in fact go into the barn, as then claimed by Mrs. Smith, and that no murder has been committed; that he came to his death by accident and not by violence. I have already called your attention to this portion of the case by asking you to determine, first, whether or not he came to his death by violence. They rely upon the testimony of the little girl that she heard her father's voice in the burning barn.

Now, that fact, if true, would be a very important one in this case. It would show beyond any doubt that Smith was then alive. You would then be required to determine whether he had partially revived from the effects of the blows already received at the hands of Cargin and Alexander—that is whether he had resumed a partially concious state so as to be able to make some outcry, or whether he had gone into the barn, as they claimed by Mrs. Smith, to remove his fanning mill and was unable to escape. But you are to consider the age of this child, the fact that persons were then claiming that her father was in the barn, and the testimony of other witnesses that the barn was at that time so nearly consumed that no living being could then exist therein, that no man could enter the barn. And also the fact, as claimed to be established by the people, that other persons were present at the time she thought she heard her father's voice, and heard no voice. Did she hear her *father's voice, or was it imagination? Did the child imagine she heard some* voice when in fact she did not, owing to the excitement that must necessarily have occured in such a transaction, and owing to the age of the child?

All these facts are submitted to you for your determination and conclusion. First, determine whether or not Charles Smith came to his death on the night in question, and if so, did he come to his death by violence, and if by violence, at whose hands? Was it at the hands of the defendant? Are

you satisfied of this fact beyond all reasonable doubt in view of all the facts in the case? Are the facts entirely consistent with his guilt? Do you find them inconsistent with his innocence? Have you any reasonable doubt upon any of those questions?

If you find that there is no reasonable doubt left in your mind but that Charles Smith came to his death by violence at the hands of this defendant, it then becomes necessary for you to determine the nature of the crime committed. Did he commit the crime with malice aforethought? Was the act committed deliberately and premeditatedly? Was there malice aforethought with deliberation and premeditation? If so, under the instructions given you he is guilty of murder in the first degree. If it lacks deliberation and premeditation, then, if you find he did the act with malice aforethought, he is guilty of murder in the second degree. Lacking malice it is not murder. You must find malice aforethought to convict him of murder. The case is one of great importance, not only to the people, but to this defendant. It is your duty to consider all these facts carefully, without prejudice, or bias, or fear, or favor, and determine by your verdict the truth. Should you find him guilty of murder it becomes your duty to fix the degree, whether in the first or second. Should you acquit, your verdict will be not guilty.

THE JURY OUT.

The jury retired at 11 o'clock, and the court at that hour adjourned till 2 o'clock. When the hour arrived for re-assembling, there never was a denser crowd in the court room. Every available seat was more than filled, and every spot of standing room in the aisles and between the seats occupied. The gallery was full and the space inside the bar was crowded with members of the bar. In the jury room, the first ballot cast was on the question whether Charles Smith was dead, and if so, did he come to his death by felonious means? The ballots on being counted were found to be unanimously in the affirmative of the proposition that the man was dead and murdered. After a pause of some five minutes duration the first informal ballot was cast on the question, "Did Charles Smith come to his death at the hands of Freeman Cargin or not?" The ballots cast, gathered and counted, showed ten in the affirmative, one in the negative, and one blank. After another pause, during which the jurymen exchanged opinions and ideas with each other, a formal ballot was taken on the second proposition, with the further addition of "What degree of murder should be rendered in the verdict?" The ballots were again distributed and gathered, the foreman, Mr. Stillman, examined and counted them, amid a breathless pause, in which the other jurymen saw the ballots placed in one pile, the foreman rose from his seat and said: "Gentlemen of the Jury, I find your ballots to contain a unanimous vote that Charles Smith came to his death at the hands of Freeman Cargin, and that said Freeman Cargin is *guilty of murder in the first degree.*"

GUILTY.

The jury filed in at 2 o'clock and took their seats in the jury box, and the prisoner was brought in and conducted to the prisoner's box, and the following usual dialogue passed between the clerk and Mr. Stillman, the foreman of the jury:

Gentlemen of the jury—"Have you agreed upon your verdict?"

Stillman—"We have."

Clerk—"What do you find?"

Stillman—"GUILTY OF MURDER IN THE FIRST DEGREE."

Clerk—"Then you say that the respondent is guilty in manner and form as the people have in their information in this cause charged against him, and you find the offense committed to be murder in the first degree? So say you all?"

Stillman—"We do."

Then the clerk asked each one separately, calling his name—"Is this your verdict?"

Each arose and said—"It is."

Judge Tennant then turned to the prisoner and told him to stand up. The prisoner stood up.

Judge—"Have you anything to say why the sentence of the court should not now be passed upon you?"

Cargin—"No sir."

Judge—"You have been convicted of murder in the first degree by the jury and it now becomes the duty of the court to pronounce sentence upon you; that duty is marked out clearly by the statute."

Thereupon Mr. Clark arose and asked for two days' time in which to move for a new trial or an arrest of judgment. The time was granted and the sentence deferred. The prisoner was then conducted back to his cell in the county jail. His cool and calm demeanor was not quite so marked, and when waiting for the jury to give their verdict he was somewhat flushed and apparently nervous, but the change in him was so light that it could hardly be detected. There was a sudden pallor visible in his face when the judge told him to stand up, and this was the most perceptible change that passed over this wonderful countenance during the entire trial.

CARGIN'S APPEARANCE.

Freeman Cargin looks like a man of 30 or 32 years of age, but his wife informed a COURIER reporter that he was but 24. He is rather above the medium height and well formed, only that there is too much of a slope to his shoulders. His eyes are blue and have not a bad expression. Hair a medium brown, and straight. Afterwards when trimmed up to suit the style prevailing in the location where his $500 venture sent him, his head, to use City Marshal Jewett's comparison, looked no larger than a tea cup. He wore a moustache and whiskers on his chin, lighter than his hair. He was well dressed and could hardly be said to possess the appearance of so hardened a wretch as developments showed. A COURIER reporter visited him in jail after his conviction. When approached, Cargin and another prisoner were sitting on one bed and two prisoners on the other bed, a board on their knees, and all were engaged in a social game of cards. Cargin arose and passed down the corridor with the reporter, away from companions and the turnkey. His bearing was even more remarkable and puzzling than before he was convicted. There was no look of depression or gloom perceptible, and he conversed as pleasantly and cheerfully with the reporter as he would had he been a free man and met a friend on the street. No one looking at him and judging from his appearance would have said, "There stands one of the perpetrators of a crime so black in its details as to make the blood run cold in the telling." Free and easy, and apparently giving no more thought to the situation than to the "high-low-jack" that he made on the last hand of cards. The reporter asked him if he was having a little social game, and he replied pleasantly hat he was just passing away the time a little. When asked if there was any-

thing that he would like to have published in regard to himself, he said he didn't think of anything only that he was innocent of the charge, and was "going up" an innocent man. When asked his theory as to the motive of Alexander and Mrs. Smith in implicating him and his wife in the business, he said that he had no theory on the subject, only that they had long wanted the job done, and thought the opportunity for doing it was good, from the fact that they were there and the crime could be laid to them. He asked what progress they were making in court, and if the same evidence would be brought out in the case of his wife as in his own case. He said he didn't see how, by any evidence that had been given in his case, his wife could be held. He said he didn't feel any different than before his conviction, only that he felt surprised that any one could go on the stand and swear as Mrs. Smith and Alexander had when it wasn't so. He said: "They say I looked pale when the Judge told me to stand up. I didn't feel it. I would never flinch a d—n bit for a lie." He again repeated that he was innocent but would try to stand it; that he had rather be punished innocent than guilty. He hoped the jury wouldn't have found him guilty in the first degree, but when the reporter remarked that if innocent the degree did not make much difference he assented, and said: "No, it don't make much difference with my hopes. I'll see if I can't prove our innocence yet in the Supreme Court." When asked if he was comfortably situated, he said yes, that they had a good cook now. The one they had along back was a devil and didn't half cook, but the one they had now was all right. The reporter left wishing him good luck. "Thank you," said he, pleasantly; "I guess I'll get it sometime."

On Thursday, December 28th, Freeman Cargin was conveyed by Deputy Sheriff Andrus and City Marshal Jewitt to the State prison at Jackson, there to remain for life, unless executive clemency is extended in his behalf.

THE TRIAL OF JULIA ANN CARGIN.

The Second Chapter in the Book of Crime.

APPEARANCE OF MRS. CARGIN.

The interest in the murder trial in the Circuit Court did not cease with the conviction of Cargin. The court room was filled again on Wednesday, the 20th, to nearly as great an extent as on any previous day. The prisoner, Mrs. Cargin, had been furnished with a comfortable rocking chair cushioned, and with a pillow behind her head, and her eyes closed, she appeared to be sleeping during the progress of the case in the afternoon. Whether really ill, or playing the role of an interesting invalid, is a matter for speculation. However, she looked very comfortable, and if she slept, her slumbers, judging from the placidity of her countenance, were not disturbed by the superhuman efforts of counsel to rescue her from her terrible position. The noise of the crowd of eager spectators behind her, or the rappings of Deputy Sheriff Rice for order in the back seats and in the gallery, did not disturb the calm that characterized that artificially pallid countenance. It did not disturb her slumbers when Joe Miller testified that Mrs. Smith was solicitous for the life of the pigs in the pen a few moments after her husband had been foully murdered in accordance with a plot devised in part by herself. The thought that her newly made husband, with whom she had started out on her honeymoon, had just been convicted of the most terrible of all crimes, did not cause a riffle on that placid brow. The thought that the whole country was talking of the foul crime in which she is charged with having been a participant did not cause a shudder in her sleep. She apparently was sleeping as soundly as the most innocent babe, and with no more thought of the morrow. She was dressed in a pale green silk dress, having horizontal bars of white running around the skirt. Her dress was not made in what is now the fashion, but in rather that of twenty years ago. She wore a close-fitting black cloth jacket, black cloth hat and gauze veil of the same color, turned over her hat. She was evidently "gotten up" for the occasion, as the evidence of complexion powder was perceptible. She is rather good-looking, considering age, being inclined to spareness in body, with cheeks slightly sunken, dark gray eyes, highly expressive and sparkling. She sports quite a respectable moustache, which rather adds to than detracts from her looks; thin lips, expressive of great firmness; small chin and ears, the latter graced with large pendant earrings. She is about five feet three inches in height, and, as before stated, is aged about 40. She sat reclining in rather a graceful attitude in her chair, and evidently knew the value of favorably impressing the spectators.

THE JURY

was made up of the following named gentlemen: Walter Fitzgerald, William Blyben, Reuben Haug, A J Putnam, Peter Malcomb, Allen Barnum, D. W. Greene, Henry Miller, Alonzo Jewett, Samuel Haslin, Henry Alma, Thomas Gleason.

The Trial.

It unnecessary to go into the details of this trial, the evidence being almost a *verbatim* repetition of that in the trial of the woman's husband. Alexander repeated his horrible story, and Mrs. Smith again detailed the frightful events of the night of the 12th of September, 1876.

SARAH EARLAND

testified that on the day of the inquest on the body of Charles Smith, she was was at his house. Saw Cargin and wife and Mrs. Smith. The latter claimed to feel badly because of the death of her husband and the loss of the barn, and said: "If Charlie had died in his bed it would have been better." Mrs. Cargin replied: "If he had not been struck he would not have burnt." Mrs. Smith said—"Who struck him?" Mrs. Cargin replied: "Oh, keep still; if you say any more I shall die. I have a house and lot in New York city worth $10,000. I would have given it all rather than to have had this happen." Cargin remarked that he had $10,000 in cash that he would rather have lost than to have had it happened.

MRS. MARY JANE SMITH,

wife of the deceased, in her statement on the stand in this case, made a few additions relating to the part taken by this prisoner in the crime. She said that she married Charles Smith ten years ago the 2d of last November, and had lived in Chesaning ever since; that Mrs. Cargin came to her house the 19th of last May and stayed two weeks and a half; that last May at Mrs. Dibbles', in flushing, she had some talk about poisoning Charley, but not much; that when she and Mrs. Cargin got home from there the latter put some strychnine for Smith to eat in a bowl of bread and milk, but that when he came to eat witness' grit failed her and she told Smith that his spoon had been used to take medicine in, and he tasted of the milk, said it was bitter and threw it out, (corroborating the testimony of Alexander the day before); that to prevent Smith from suspecting something wrong Mrs. Cargin tasted of the milk, said too it was bitter, and threw it out; that when she came down to Salina and stayed all night with Mrs. Cargin, and Alexander came over to the railroad with them the next morning, and said on the way over to witness, "Charlie will give you h—l when you get home." Mrs. Cargin said, "I wouldn't live with such a man as yours." Mrs. Smith replied, "You don't know what you would do." Mrs. Cargin reminded witness that she did know what she would do, and that she would kill kim, and that for $500 she would produce a man that would kill kim, again corroborating Alexander's testimony. That after the June visit Mrs. Cargin used to write to her about the contemplated murder and addressed the letters in her name that Smith might not get them. That when she mortgaged her farm she bought Alexander a suit of clothes, Mrs. Cargin a hat, and paid Cargin $40 to replace the money which he had borrowed to enable him to come out here. That on the night of the murder she gave Alexander $10 in Cargin's bedroom, and that Julia

was in the kitchen at that time. That Cargin told witness after the murder that if she ever told of it, if he could not get out to do it, he had a brother and a cousin that would fix her as he had fixed Charlie. That just before the barn was fired the baby was crying in the house. That she scraped her husband's blood from the wall with the scissors, after a crowd had gathered around the burning barn, and also wiped up the floor with a cloth. That Mr. and Mrs. Cargin told her to stick to the testimony she gave at the Coroner's inquest and she would be all right, but that it was false and she got caught and couldn't stick to it any longer.

Upon cross-examination, she was asked if, upon the other trial, she mentioned Mrs. Cargin as taking a part in that conversation, she said she did not know. That if she did not it was because she was not asked it. She was also asked by the defendant's counsel if, upon the other trial, she gave any testimony about the poison put in Mr. Smith's bread and milk by Mrs. Cargin. She said she did not, for the reason that she was not questioned in regard to it, but that it was true.

At this point in the testimony Mrs. Cargin was seized with one of her frequently occurring fits, and she began to gasp, stretch, squeal and clutch at empty nothingness with her outspread hand, and at once Wm. A. Clark, jr., laid his hand persuadingly upon hers and whispered some forcible utterances in her ear, by which she was made to understand that it wasn't the right time to put in a fit to the best effect and advantage, whereupon she instantly became quiet.

ALEXANDER

also in his testimony made the same addition. He said that Mrs. Cargin informed him at that time that she had tried to kill Smith herself only a few days before that; that her sister, Mrs. Smith, had some strychnine in the house, and that she, Mrs. Cargin, put some of it in a bowl of bread and milk one night for Smith to eat, but that he tasted of the milk and said it tasted bitter, and would not eat it, and it was thrown out, and that Mrs. Cargin and Mrs. Smith excused it to Mr. Smith on the plea that they had some medicine in the spoon and forgot to wash it. Upon cross-examination he was asked if he had testified about the poison in the milk upon Cargin's trial, and he said he had not, for the reason that he did not think it was material to Cargin's case, and also that nothing was asked of him about it. That if counsel had asked for it then they would have got it then as now.

On Wednesday, December 27th, Freeman Cargin, the convicted murderer, was brought over from jail to testify in the case against his wife. The sheriff brought him in handcuffed, and after the irons were removed, he shook hands with his wife, and they were apparently glad to see each other. Cargin was then called to the stand and testified substantially as follows:

FREEMAN CARGIN.

I am husband to the defendant; knew her three years before we were married; my business is milling and painting; have been four or five years at it; was married in Duchess County, N. Y., by Justice Nichols; that is one county above where I live; I live in Westchester County; I was intending to go somewhere on my wedding trip and Mrs. Smith wrote us to come here and we came; we got one letter asking us to assist her about selling her place so she could go back with us.

Mr. Gillett asked if he had that letter.

Witness said he didn't; he didn't know but his wife had it; didn't know what become of it; when we got here Mrs. Smith said she wanted to mortgage her place, not sell it: soon after that Alexander, Mrs. Smith, my wife and I, went to Corunna and drew money, about $250; she gave Alexander money to buy a suit of clothes; we then came back home; she was to pay our way out here and back; she gave me $40 at Smith's house during the next day or two; I was hunting and shooting at a mark most of the time; Smith and I went hunting one Sunday about two weeks after I came and a week before the barn burned. Nothing more was said about selling the place after we came; one day after dinner Smith went down in the lot to work; Mrs. Smith and I stood in the yard; we heard some one whistle and saw Alexander; Mrs. Smith went out into the cornfield where Alexander was; I went out there and came back. Something was said, but I don't remember what, and I went back to the barn; this was three or four days before the fire. I stood in tne barn and looked through the cracks and listened; heard Mrs. Smith or Alexander say: "Now is a good time to do our work; If we get caught it will be laid on them." I heard nothing more and went to the house and told my wife that we had better go home; this was two or three days before the fire; I had a difficulty with Smith; he had been away one day and came home and jawed at his wife, I told him I wished he wouln't; he said it was none of my business; Mr. Doane came along soon and they went down to the road: I heard my name and went down and told Mr. Smith I wished he would leave my name out; he said he had ordered me off the place, and I said I would go when I got ready and was most ready; I then said "if you was a man I would take your jacket off, you don't know more than that mule." We had no other difficulty. I did't see Alexander after that time till the day before the fire; I was hunting and met him; I got into the wagon and went to the post office, then back to the corners, one-half mile north of Smith's house; he stopped then and wanted to know if I would go to Vassar; I said I would see the woman about it; went to the house and Mrs. Smith wrote a note in reply to one I brought from Alexander; my wife didn't want me to go to Vassar, and I said I wouldn't. He asked me to get in the wagon and we rode about three miles. We got back to the state road and I got out. I told him I was going back to New York the next day. I heard Alexander's story in my case. There was no such conversation as Alexander described. We talked about the country principally. There was never any talk between me and Alexander or any one with regard to making away with Smith. Smith and me went out to his mother's one day. While there she asked me how I liked married life. I said very well so far. She said she hoped I had a better wife than Charles. She said she heard Mrs. Smith say when Mrs. Cargin was here last spring that she (Mrs. Smith) would like to wash her hands up to her elbows in Smith's heart's blood. Smith and I made up the difficulty that occurred in the Doane interview. I had no hard feelings towards him. There was no talk between my wife and I about killing Smith; don't remember what else was said on that morning. That Tuesday night Smith and I were playing cards till between 8 and 9, then went to bed, my wife and I, and went to sleep after a short time; don't know whether she went to sleep or not. I next heard somebody give an alarm of fire. I punched my wife and said there was a fire. I got up and put on some clothes and went towards the barn; somebody was ahead of me, just into the barn. He said, "Freem, you'd better go and alarm the neighbors." I thought it was Smith, but was excited and didn't know; didn't see Alexan-

der that night; don't know where Mrs. Smith was; don't think I saw her, but saw the children; I was dressed most of the time as I am now. Sometimes I wore a pair of light pants owned by Smith, and once or twice wore Alexander's colored shirt; think I was dressed on the night of the fire the same as now. When I came back from Westfall's, Miller was there; I jumped over the fence by the hog pen; soon Mr. Westfall came; Miller asked where Smith was; Mrs. Smith said he had gone after the fanning mill; she was crying and taking on; all stood till the barn was nearly burned down; when the barn was burned down so we could see into it, we saw a heap on the floor and some one threw a stone at it; I picked up a piece of board and said "It won't do any harm to throw them in, will it?" and threw them on the bunch. Cora was about two rods from the barn; I have no colored shirt and have had none for two years; the one I wore was Alexander's; think I was going hunting one day and saw it laying in the sitting room; I asked Mrs. Smith whose it was, and she said Alexander's; I asked if I could put it on and did so; never had any talk with any one about getting $500 for killing Smith; Mrs. Smith since she had been in jail—about ten days after her arrest—hollered through the hole to me "Smith is dead, aint he? Well I've tried to kill him a good many times, and now I have made it out. I tried to give him some strychnine when your wife was out here last spring, but he tumbled to it and didn't drink it."

Cross-examined.—My wife's name was Palmer; I live in Katonah; Mr. Nichols' wife and daughter were present at the wedding. The conversation in the cornfield between Mrs. Smith and Alexander was on Friday or Saturday; I was about three feet from them; they said that now would be a good time to do the business, and it would be laid on us. I was in the barn; had been making a ram-rod. About ten or fifteen minutes before this I talked with Alexander in the same place. The reason that we didn't go home immediately after this was that we were waiting for Mrs. Smith to go with us; thought we would go as soon as possible, but thought we would wait a few days for her. When I met Alexander with the horse I supposed he had come from Vassar; saw Alexander first on the first day that I went to Smith's. He came to the gate where the wagon was. I don't think I heard of him before I got on the road coming out here. Mrs. Smith gave me $40 to pay our expenses with. We came on our wedding tour. [Mr. Gillett asked Mr. Clark for some letters, which he showed to Cargin. Cargin thought it might be his writing, but wasn't positive.] The writing looks a little too good for me. I wore the light pants may be half a dozen times; they were pretty short at both ends; don't know where they are; last saw them on Smith's bedstead; the calico shirt on the morning of the fire was in my trunk; (shown cuff) they belonged to me, but I had no shirt like them. I went to bed between 8 and 9 o'clock on the night of the fire; did see Alexander; knew he was to stay in Chesaning; I was roused between 12 and 1 o'clock by their clock; don't know who gave the alarm; I woke up, punched my wife, and got up and went to the barn; saw one person who told me to alarm the neighbors, and I went to Miller's; heard no noise nor confusion; don't know anything about the plaster; think it was put up in the scaffold in the barn; there were sheepskins there; didn't examine the bunch in the barn; saw the plaster in the upper part of the barn when hunting for hen's nests; the plaster was on the east scaffold; Smith said he put it up there to save till winter to feed the chickens. [The witness was shown a diagram of the barm, and from it described how they got up above.] Noticed the plaster once when I was

up there, and asked Smith about it; I should judge there was half a bushel; after the alarm of fire I first saw Mrs. Smith when I came back from calling the neighbors; can't say whether it was a man's or woman's voice that gave the alarm; didn't go into Smith's room the next morning, and didn't see any blood spots; didn't see Alexander during the night and heard no noise or confusion in Smith's room.

MRS. CARGIN.

Mrs. Cargin, the prisoner, was next called to the stand, and told a story substantially like the following:

She asked the jury when she should commence, and one of them said to begin at last June. She said she came here last of May, and stayed three weeks; came on Friday; on Sunday Mrs. Smith and I went to Smith's mother. She came back with us; on the next Tuesday we came to this city; when at the depot saw a young gentleman there, and Mrs. Smith said "this is my fellow;" she shook hands and kissed him, and gave me an introduction; going across the bridge they saw some logs, and Alexander said he had been at work on them saw logs; nails were in his boots; he went to pay the toll and I said I would pay; we went up to Mrs. Alexander's, and he introduced Mrs. Smith as Miss Rolfe. This was the first that I suspected that something was wrong; they laid on the lounge and hugged and kissed, playing sweet; we afterwards went to the city; when we got back they laid on the lounge again; Mrs. Smith asked Alexander if they should sleep together; I told Alexander's mother; I and Mrs. Smith slept together; when I came down stairs in the morning, they were on the lounge. They were both crying when we were going to the depot. Alexander gave us some oranges, and stayed on the train till it started; on the way home Mrs. Smith told me not to tell her husband about what I had I seen. I said, 'tisn't likely he will ask me, and if he don't I shan't tell. We were out here ten years ago, and my husband said I might come again in two years; he was sick twenty-two months, then died, and I couldn't come; Mrs. Smith and I corresponded as loving sisters all the time. When at Mrs. Alexander's after tea, Mrs. Smith and Alexander wanted to go to see a new boat, Mrs. Smith said Alexander didn't want me to go. Mrs. Alexander said we would go together; she said she didn't want Alexander to marry so old a lady for fear they wouldn't be happy. I said, never fear but I would keep him home. I supposed that Smith might come home some time and catch Alexander in bed, or in the barn with Mrs. Smith, and this young boy would get hurt. I was afraid Smith would kill him. I supposed Smith could take his own part. When we got home from Saginaw all was pleasant. I said if I got married I would come out and visit them. The day I went home Mrs. Smith went to Corunna to see a man about some money; Mrs. Smith got a man to carry my trunk and box, and we walked down; we went to the post office and Mrs. Smith got a letter addressed to Estella Horton; we met Mr. Smith and he gave me a parasol, bought my ticket and kissed me good bye; I told him I would come back in the fall if I got married; Mrs. Smith wrote me several letters; she wrote to me to come out; once she wrote me a letter saying that Charlie had whipped her and wanted me to reply in my own name, so Charles wouldn't read it; I wrote once and again in my name. Never since I was married to Cargin have I wrote her in my name. Was married on the tenth of July. My sister mentioned no object for my coming out only that she wanted to sell her place; she offered no inducement; she said if I came out she

would pay my way one or both ways, we came to the hotel and found a boy with a one horse wagon to take us to Smith's; Alexander was there; didn't recognize him; Smith came home that week, and me, my husband and Mrs. Smith started for Corunna; overtook Alexander on the road; he went with us. He and Mrs. Smith went up a pair of stairs and we went on up town; we came back soon and saw them on the street arm in arm; they went and bought him some clothes; then we went home; never saw Alexander again till I saw a man in Chesaning who she introduced to me as Howard; I found out afterwards that Howard, Frank Alexander and Nock Alexander were all the same one. Smith got mad once when shooting at a mark. The day before the barn burned Cargin went hunting and came back about noon; he asked me if he could go away to stay all night; I said no, and he didn't go. On the night of the fire I sat in the sitting room in the rocking chair; had a headache; the men were playing cards and Mrs. Smith was making a dress for the baby; about 8 o'clock she went into the bedroom and stayed about three-fourths of an hour; she made me some soda water and then Freem and I went to bed. No one was in the room unless under the bed. We both undressed and went to bed. In about twenty minutes he rolled over to the back side of the bed and went to sleep. I never woke up till I heard some one holler hre. He woke up and punched me and raised the curtain; then I saw the fire. I picked up the baby and sat down by the window; saw Mrs. Smith and a man going to the barn, whom I thought was Smith. I still think it was him, and always shall. Mrs. Smith and Cora went to draw the wagon away from the barn. I next remember of seeing a lot of men. Mrs. Smith came in and said, "Don't sit like a bump on a log, but get up and exercise yourself." I said, "Jen, I can't; I feel terribly bad." The next morning a man wanted to search my trunk and did so. Mrs. Smith stated here that I knew she had strychnine in the house. I didn't know anything about any poison, and never saw any deadly poison except Paris green. When at Mrs. Dibble's at Flushing we visited the graveyard. Coming back we stopped to a neighbor's to dinner. I was playing with her ducks awhile and she told about the man she had shot. Once Mrs. Smith and Mr. Smith had a quarrel. He was going to strike Mrs. Smith and I told him not to or I would strike him. He ordered me away. I never made any remark before Mr. Smith's mother about killing Smith; she is mistaken. My first intimation that Smith was in the barn was when Mrs. Smith called him.

Cross-examined.—My first husband had been dead five years the 30th of last July; have told all I can remember about my last visit; I don't think I have any of the letters spoken of; I always throw my letters in the wood box to light fires, pipes or cigars. I thought as much of Smith as of any brother-in-law; didn't think the correspondence should be read by her husband, because there was something in it relating to the peculiar condition of his wife; she got the money on a mortgage so she could go with me to New York. Katonah is a small place, but as big as three of Chesaning; there is a Justice of the Peace there, and the Judge of the County Court lives there; I lived in the new village; there are lawyers there. I was married to Cargin up towards Boyd's corners; the Justice who married us was Mr. Nichols; this was ten miles from Brewsters. Boyd's Corners is in Duchess county. [Witness pointed to Mr. Dredge and said he was the man who searched her trunk.] My satchel is in my trunk in the jail. I am not positive whether I didn't take the things out of my trunk when Mr. Dredge opened it. I slept on the fore side of the bed on the night of the fire, and saw only my husband in the

room. I don't know who gave the alarm of fire—all were screeching and screaming, the children and all. I never lived in Buffalo, N. Y. I never lived ten miles from home; never visited in Buffalo.

At the close of Mrs. Cargin's statement one or two other witnesses were sworn but nothing of special importance was elicited.

The argument was opened by L. C. Holden for the people. We have not here space to give even a synopsis of it, but will merely say that he entered into a careful resume of the confessions of Mrs. Smith and Norris Alexander, and said that if they were true Mrs. Cargin was guilty of murder in the first degree, and then proceeded to show the many facts and circumstances corroborating each point in the confessions, and said if the confessions were not true it would be impossible that they should be alike. inasmuch as the parties had not seen each other since being incarcerated in the jail, and that it would also be impossible for all the many facts and circumstances to corroborate their stories. He did good justice to himself and the case, and it is generally conceded that he outdid his effort in the former trial. At one time he cautioned the jury against being carried away by the eloquence of defendant's counsel, and said that they "will doubtless portray the terrible consequences of a verdict of guilty, and in eloquent and glowing terms remind you even if such should be your verdict, that at the close of her imprisonment her winged angelic spirit would soar upward through infinite space, finally to perch upon the topmost pinnacle of the utmost turrets of the golden battlements of heaven, there to look lovingly and forgivingly down upon her persecutors." But he thought that "in the light of the revelations in this case, that it is easier far to her spirit to asume the form of a loathsome, leprous toad, fattening on the fumes of hell." But with all he could say or do, Mrs. Cargin remained, like her husband, so called, upon his trial, wholly unmoved and at ease.

The Defense

Was opened by W. A. Clark, Jr., who followed Mr. Holden in his remarks. He cautioned the jury not to become prejudiced by the eloquence of the counsel who had preceded him, and said the defendant's theory was that Mrs. Smith and Alexander murdered Smith while Cargin and his wife both slept, not knowing of the crime, and were trying to pack their own guilt on Mr. and Mrs. Cargin, both of whom, he asserted in strong terms, were entirely innocent of the crime, and pressed this theory upon the jury with all the energy and eloquence at his command. He far outdid his former effort, and closed his remarks just in time for

Cargin's Sentence.

At 5 o'clock Sheriff Andrus brought Freeman Cargin into court in irons, and the proceedings in the case then in progress were suspended, and all eyes were directed toward this monster man as his manacles were removed, and he was ordered to stand up and was asked by Judge Tennant if he had anything to say why the sentence of the court should not then be passed upon him. He replied: "I don't know as I have anything to say in particular. I don't think of anything to say." The Judge then proceeded to pronounce his sentence as follows:

"You have been convicted by a jury upon a fair trial for murder in the first degree. You selected from the bar the attorney you wanted to defend you, and the courtassigned the one you selected, and also issued compulsory

process for all witnesses you desired at the expense of the people. The trial was had and the jury rendered their verdict, after hearing their proofs against you, as adduced upon the trial. I must say that I am satisfied with the verdict, and can say nothing for your benefit. By the common law your life is forfeited, but by our statute, while your life is thus forfeited of your own act, yet it shall be spared, though in such a way that it is no longer of any use to you. It belongs to the people of this State. You have been found unworthy to live, having taken life. The law is in most States a life for a life, but in ours it requires that you be placed in solitary confinement at hard labor for life. You are yet a young man, and perhaps life may have some attractions even to you. There are many happy things and much enjoyment in life for a young man like yourself, if you would but turn your faculties toward good deeds instead of evil ones. But you would not, and the balance of your life shall be spent in a felon's cell in consequence thereof, where you will have every opportunity afforded you that solitude gives, to meditate on the enormity of your crime and prepare yourself for the future. Perhaps it would be more just to end your life at once as it is no more use to yourself. But such is not our law. Your own views in regard to the justness of our law is of no earthly importance to any one. You should employ your mind in preparing for the future."

Cargin, interrupting the court, coolly replied, "Your Honor, I am prepared for all I've done."

The court, resuming: "It is generally said that while there is life there is hope, because some secret may come to light to show it. If you are guilty you ought not to have any hope. It is true that the executive may pardon you should new facts be brought to light, which do not now seem possible to exist. You know whether you are guilty or innocent; and I have said that if you are guilty, as it clearly seems to me you are, and you rely upon a false hope that by some hook or crook you may avoid your punishment, it is a delusion and a snare. What your motive was which led you to the commission of this horrible crime no one knows. The mere pittance you were to receive could not have prompted you to the commission of so terrible a crime, and if it is true that you were prompted to do this act for such a pittance, then you are unworthy to be called a man. Your past life must have prepared you for such a deed. Your only hope is that some time the executive may commute your sentence so that you may be permitted once more to see the sunlight, and to work in the shop with other convicts. But until then you will be consigned to a living tomb, and not allowed to see even the face of your keeper, but remain wholly unseen in a loathsome dungeon, and fed there by unseen hands. It is a fearful thought. It is to be hoped that during your confinement you may so change, if change be possible, that you may become a better man, and that you may be shown more mercy than you showed your poor victim when he plead in vain with you for God's sake to spare his life.

It is the sentence of the court that you be conveyed to Jackson, there to be punished by solitary confinement at hard labor in the State Prison for life."

Cargin remained unmoved during his sentence, and at the close nodded assent to the Sheriff to again be placed in irons and conveyed back to his cell.

Mrs. Cargin Found Guilty.

On Thursday, the 28th, the arguments of counsel in Mrs. Cargin's trial were concluded, and Judge Tennant charged the jury. His charge was materially the same as in the case of Cargin only as to the difference in the manner of participation of each. After the charge the jury retired to consider their verdict to be given, the court informing them that he would be in at 7 o'clock to receive it if they should find it then.

Judge Tennant was at the Court House at 7 o'clock p. m. to receive the verdict but the jury was not ready. At 9:30 he again visited the Court House but still they had not signified their readiness to render a verdict. Shortly after 10 o'clock, however, they came out and rendered a verdict of MURDER IN THE FIRST DEGREE. Mrs. Cargin heard the awful words without apparent emotion and was conducted back to jail. There was an immense crowd of people in and about the Court House waiting to hear the verdict.

Mrs. Smith and Alexander.

On Friday, the 29th, the matter of the offense of Norris Alexander and Mrs. Mary Jane Smith came up. They had plead guilty, and all that remained was for the court to decide upon the degree of their crime, and sentence them. The following will show the sentences of these two, and the reasons for the leniency of the court.

PROSECUTING ATTORNEY GILLETT

made a statement as follows: I agreed with the counsel for these respondents, both of them, to recommend to the court that they should receive a sentence for murder in the second degree, because I believe they would render essential aid to the people in finding out the truth in regard to the matter, and I did not do it unadvisedly. The court was absent, and I took counsel with some as good men as there are in the county, I believe, and we talked the thing over, and we believed that there would probably be a reasonable doubt in the minds of the jury, there being nothing at that time except circumstantial evidence in the case; and that the jury would disagree, and would have good ground for disagreeing, and we then upon consultation said we would recommend this to the court, that this action should be taken, provided it should appear on the stand here that those parties had rendered aid to the people so as to warrant it. I believe they have, and I am warranted in saying that the others who counseled with me at that time believe that they have, and for that reason I ask that judgment be entered against Norris Alexander and Mary Jane Smith for murder in the second degree, and that sentence be pronounced against them for that offense, and that the service they have done to the people in bringing to light the whole of this most foul murder shall be taken into account by the court in pronouncing such sentence.

MR. WILBER.

Mr. Wilber asked permission to address the court as the counsel of Mrs. Smith, and stated that he had relied upon the promise of the Prosecuting Attorney that in case his client, Mrs. Smith, should render substantial aid to the people upon the trial of the others equally guilty with herself, he would use his influence with the court to have her found guilty of murder in the second degree, and had accordingly allowed his client to confess in open court her guilty connection in the crime, that upon the grounds of public

policy the court ought to take into consideration the agreement of the Prosecuting Attorney, and give sanction to the same, though Mrs. Smith has never been appraised of that agreement lest it might have an influence on her testimony; that unless the same was done, then criminals would be made to know that there could be no object in aiding to bring others to justice; that criminals would be deferred from giving truthful and valuable testimony in the cause of justice lest in so doing they would lay themselves open to receive greater punishment than they would receive but for their full confession, and so the Prosecuting Attorney, an officer of justice, would very often be crippled in his efforts to ferret out and punish crime, and many guilty scoundrels would in consequence go free.

DAN. P. FOOTE.

Mr. Foote then arose in the interest of his client, Norris Alexander, and addressed the court as follows:

May it please the Court: As the Prosecuting Attorney has seen fit to bring these two cases, that of the boy Alexander and Mrs. Smith, to the attention of the court at the same time, I am as well prepared as I shall be at any future time to present the boy's case to the court.

Unless the court shall be willing to accept the request of the Prosecuting Attorney that a judgment of murder in the second degree shall be entered, if the court is not satisfied to do that, then I will proceed to show to the court by witnesses to be sworn and examined by the court why a judgment for murder in the second degree should be found, and the reasons why, in my opinion, that that should be the judgment, and the proof upon which I should rely I will briefly state to the court.

The court may have noticed in the testimony that has been given in the two cases already tried, that the positions of the several parties in this case are entirely different. No two of them can be said to stand in the same position. Mrs. Smith, who was a woman, it appears, living in unpleasant and unhappy terms with her husband, had contracted an unholy passion for this little boy—small boy—Alexander. Like any boy of his age who was without parents, who had been an orphan since he was nine years old, he was peculiarly susceptible, peculiarly open to the influence that such a woman—that any woman—might exercise over him. Now the statute defines what shall be murder in the first degree and what shall be murder in the second degree:

"Any murder that shall be perpetrated by means of poison, (that is not this case,) or lying in wait, or any kind of willful, deliberate and premeditated killing."

The first question then that addresses itself to the court is: Was this, so far as the boy Alexander is concerned, a case that can be called willful, deliberate and premeditated killing? In order that there should be willful, deliberate and premeditated killing, there must be that state of mind, that condition of mind that the person is capable of forming a willful, deliberate and premeditated intent. We all know it is a universal and well recognized principle of law that a person that is insane is not capable of forming this willful, deliberate and premeditated intent that makes it murder in the first degree. The mind is in that condition that the person can not be said to form any deliberate, willful and premeditated intent. Now, then, was this boy, under the circumstances, in that condition that he could, as a matter of law, form that willful, deliberate and premeditated intention that would make his participation in this transaction murder in the first degree? Take into account

the situation of this boy. Remember, that before he was nine years old he was deprived of one of his parents, and he lost his father very shortly afterwards. I think he was about eleven when his father died. (Mr. Foote was here interrupted by Mr. Clark.)

Now, may it please the court, it may be proper for Mr. Clark to interrupt me, it may be proper for every man in this room to interrupt me, but it is not according to my idea of the proper manner of proceeding. I will answer to the prosecuting officer. I will answer to this court, and out of this court room I will answer to any man; but while I am before the court I deny the right of Mr. Clark or any other man except the prosecuting officer, to set me right, and I ask the protection of this court that this fellow may be silenced until I can be heard in this case.

I will repeat what I said before, that the boy was eleven years old, or about that, when his father died; three from fourteen leaves eleven. I am speaking of the time this boy first came under the influence of this woman, when he was past fourteen and coming fifteen. His father died when he was past eleven and coming twelve. Upon this question of fact you see I am right, notwithstanding the interruption of this man, who is not the counsel on either side in this case.

Now, then, take into account that that boy lost his parents at the age of 11 or 12 years; from that time on up to the time he was 14, coming 15 years of age, he had no other education; no other instruction; no other culture; no other advice, and no other guidance than such as might be received in the streets of the not most moral city in the United States. A waif upon society; a boy without teachers; a boy without a guide; a boy without protection, falling under the influence of such a woman at such an age. The relations between these parties commenced when that boy was only 14 years of age; before he could appreciate them; before he could understand what he was doing. That boy fell under the influence of that woman until she became his controller; his guide, his dictator. He had no thought, no mind, no sentiment, except what she formed for him. Can he be said to have such a mind that he was capable of forming a willful, deliberate and premeditated intent? Can the court on its conscience say that that boy was entirely sane? Was he not insane upon this subject; is it remarkable? Have not sane men, strong men, fallen under the influence of such women and committed deeds like this? Macbeth did not slay the good Duncan because he desired Scotland's throne, but it was Macbeth's wife who hounded him on to that deed of blood. This boy took no part in this transaction because of any free will of his own, but because that woman prompted him to it, blotted out from his mind everything of right and put him in the position in which the court finds him; and yet it remains true, notwithstanding all this unfortunate influence, he was not capable of doing this deed of blood. He shrank from it, although it had been proposed to him by her—another agent had to be employed. Can you say that that boy was so sane; that he had such a control of himself; that his mind was in that condition that he could form this willful, deliberate, premeditated determination to kill? How could he form it any more than any other insane person?

These facts all appear from the testimony in this case, and it is upon these facts that the prosecuting officer of this county is willing to concede that this is murder only in the second degree, because it lacks those essential elements which make it murder in the first degree.

No one of us, may it please the court, can be sure that had our lot fallen under the same circumstances that we would not have been an Alexander. Do not we all know that our position is in many cases owing to good luck rather than good guidance, neither of which this boy has had?

I ask the court, I ask the community, I ask every sensible man to deal with this poor waif, this fatherless, motherless, untaught and unfortunate boy, as they would like to have a community or court deal with their child, should God deprive it of the protection that this boy has never had.

There are considerations which can be made abundantly apparent to the court, if they are not considered by the prosecuting officer, to guide its judgment in coming to a conclusion. But there are other considerations which are worthy of notice in this matter. They are considerations of policy that apply alike to all cases of this kind. They have been alluded to by Mr. Wilber. They may be said to be considerations of public policy. Mr. Wilber stated the case fairly in respect to the arrangement that was made with Mr. Gillett, and I shall, before I close, make it apparent to the court that a similar arrangement was made with myself.

The considerations of public policy are these: If it shall go out through the community and become known to criminals that those who betray their associates receive no advantage, no benefit from it, then you discourage the betrayal of the associate in crime. It is a well-known fact that the betrayal of a confederate in crime tends to create distrust among criminals, and everything that tends to create that distrust among criminals tends to promote justice, because it tends to prevent combination among criminals; and when you make it known to criminals that when one shall expose another he shall receive no benifit from such action, how long will it be that you will get testimony this way? How long would it be before these persons would remain silent, and great crimes, like this, be perpetrated and pass unpunished.

Very early in the history of this transaction I became aware of the facts in this case. It was a matter for me to determine for myself and on my own conscience what course I should take in it. I am entirely satisfied with the course I have adopted. I saw that there had been a most mysterious, bloody and horrible crime committed in this county—such a crime as not one of us, as no man in this county had any real knowledge of; such a crime as we read of in the most wild, improbable fictions. The question was, should these persons who committed this bloody crime be brought to justice, or should they be shielded? I will not undertake to say that Alexander might have been cleared, because that might look like presumption. I will not undertake to say that Cargin, Mrs. Cargin and Mrs. Smith might have been cleared, because the court would say that is presumption; but I will undertake to say what no man can gainsay, that if it had not been for the testimony of this boy Alexander the conviction of the other persons of this crime would have been rendered most exceedingly doubtful, and I will say very improbable.

When you take into account the great service that he has rendered the people of this country I think it entitles him to consideration; and before I consented that he should be made a witness here I had a distinct arrangement with the Prosecuting Attorney of this county and with the Sheriff of this county, that this matter should be by them presented to the court and that the court should, so far as the court could be influenced by them, be guided by the arrangement they made, which was that this boy should be convicted of murder in the second degree and that the question of punishment should then be left to the court. The Sheriff and Prosecuting Attorney are both in

court, and if, like Mr. Clark, they think I am not stating this matter correctly they will answer.

Now, I do not say that the prosecuting officer of this county, nor the sheriff of this county, nor all the people of this county, could bind the conscience of this court, but I do say if this arrangement is not carried out in good faith, as it was then made, a serious blow is struck at the administration of justice. The court knows, and every man in this community who has intelligence enough to know that two and two make four, knows that it would have been very doubtful that Cargin and Mrs. Cargin could have been convicted if it had not have been for the testimony of the boy Alexander.

Say then to criminals: "No matter what arrangement you may make with the prosecuting officer of the county, with the sheriff of the county, with the high officers of the county charged with the administration of criminal law, no matter what arrangement you may make with them whereby great criminals shall be brought to justice, you shall receive no benefit from it, and the arrangement or agreement shall be violated, disregarded," and, I say, a serious blow would thereby be struck at the cause of justice.

It is infinitely better that Mrs. Smith and this boy Alexander should be let off with a light sentence than it would have been to have had all four of these persons go unpunished, and let that terrible Chesaning murder remain still a mystery. And they have aided the people, and this court knows they have been the means of bringing them to justice. They have been the means of placing a conviction, beyond the least doubt, in the minds of every person in the community, that the persons who have been convicted of this crime are the guilty persons. They have performed a great service; they have performed that service under the express stipulation that it should be recognized.

Think, may it please the court, what is meant by murder in the first degree in this case. That boy is 19 years of age; he may live to 70; 51 years to be immured in the State prison in solitary confinement, to remain for 51 years in a living tomb, buried alive, blotted out from human existence, no hope, no mercy, a lifetime; more than half a century to be buried between stone walls, and for what? Because, when he was nine years of age, he had the misfortune to lose his mother; because, when he was eleven or twelve years of age, he had the misfortune to lose his father; because, without education, without instruction, he grew up until he was fourteen years of age, and then fell under the influence of this woman who molded him as the potter molds clay and made him what he is. He is to be punished not so much for his crime as for his misfortune, for it was his misfortune rather than his crime.

Deal with this boy, may it please the court, as you would have some other Judge deal with your child if it should so happen that he should be deprived of both his parents and be thrown, as this boy was thrown, under that woman's influence. Who can say that it would not have been your case or my case? Who can say that it would not have been the case of nine-tenths of the men in this community if they had been placed in the same position and thrown under the same influences? These considerations address themselves to the merciful consideration of the court.

Now I undertake to say that there is not an intelligent person in this community who has heard this evidence, who is acquanted with the circumstances of this crime, but what would say that this boy should be let off with a light sentence. I do not mention that because this court should be influenced by the sentiment of the community at all; I mention it only as proof of the merit of what I am asking for. I undertake to say further that there

is not an intelligent person in the community, who had heard this evidence, who is acquainted with these circumstances, but what would fully believes that this murder would not have been committed if it had not been for Cargin. The criminal relations between these parties had continued from the time the little fellow was 15 years of age up to the 12th of last September, when he was not yet 18. They had wanted Mr. Smith out of the way that they might have free license for their unholy love for each other, but they lacked the courage. It was not in their minds to form that willful, deliberate and premeditated intent to kill that the statute makes murder in the first degree. However much they may have desired his absence from the earth they were not able to accomplish his death, they could not bring their mind to that condition. A temptress appears on the scene, having a desire to wash her hands up to her elbows in Smith's blood, and she has a ready tool who for $500 will accomplish the result. Mrs. Smith, poor woman, frail woman, weak woman, wicked woman, employs this temptress and her agent, and Smith passes from our earth. Not by the act of the boy Alexander, that is, not by his willful, premeditated act, because I say he was not able to form a willful and premeditated intent. For three years and more, or for four years or more, Mrs. Smith had desired it; but they always halted; they never came to the point of killing; they never even attempted murder, and this murder would never have been attempted or accomplished if it had not been for these persons that the boy Alexander has aided, most materially aided, in bringing to justice.

I say, then, as a matter of justice; as a matter of policy; as a matter of positive agreement with the prosecuting officer of this county, this boy should be convicted only of murder in the second degree, and I say further that the sentence should be less, very much less, than what it should have been had he been an older person and more capable of forming a willful, deliberate and premeditated intent to kill. His mind was too young; too soft, so to speak, to form and carry out this horrid purpose. There is abundant proof that during all the four years they desired his absence, but they never would have made an attempt if it had not been for these persons that they have assisted the officers in bringing to justice.

Considerations of policy, considerations of justice, considerations of humanity and charity, demand that this boy shall be dealt with as we ask the court to deal with them; and I am sure that having so dealt with him the court will receive the approval of his own conscience, as I know it will receive the approval of every human, just-minded man and woman in the community.

JUDGE TENNANT.

If proof is taken in these cases, and the proof should be of the same character as that taken in the other cases, I am inclined to think that the facts would compel the court to find them guilty of murder in the first degree and not in the second degree. But the Prosecuting Attorney controls criminal cases, unless for some reason another attorney is appointed to take his place. Now, if no proof is given in each of these cases, then it becomes the duty of the court to find them guilty of murder in the second degree and not the first. Without the statements made under oath by each of the defendants, there would not be sufficient evidence, perhaps, to warrant the court in finding the degree of crime, that is to say, if the court should strike out all that Mrs. Smith and Mrs. Alexander have said, and only consider the testimony that has been given by other witnesses, there would be doubt as to whether there was premeditation and deliberation. It would then only appear that there

had been a murder committed at some time during the night of the 12th of September, but with what deliberation or premeditation we could have no means of knowing.

I think that public policy demands that when a promise is given by the prosecuting officer in good faith it should be carried out by the court. It is true that prosecuting officers are almost always in the dark at the time these agreements are made. They have no means of knowing what evidence may be found in the future. They are sometimes led to believe that the evidence is not sufficient without the aid of such self-convicted criminals, and having once made an agreement of that character, and made it in good faith, then it is the duty of the court to acquiesce and permit the agreement to be carried out; otherwise the Prosecuting Attorney is left without remedy if he seeks to obtain evidence from that source. Such has been the uniform views expressed by the courts so far as I have means of knowing, and frequently the Governor has granted a pardon because a pardon has been promised by the prosecuting officer, and for no other reason.

The order as entered upon the Journal should read: "The prosecuting officer having recommended to the court that the degree found should be that of murder in the second degree," and no proof having been offered in the case, therefore the court determines in each of the cases the degree in accordance therewith, and it may be so entered.

Mrs. Cargin's Sentence.

At 10:10 a. m. Judge Tennant said, "Mr. Sheriff, send for Julia Cargin,' and within five minutes the immense throng of people blockading the alley-way of the Court House began to surge to the right and left, forward and backward, trying to obey the order, "Make room for us to pass," coming from Sheriff Andrus, and after a little delay a passageway was effected through the throng, and the prisoner was hastily placed in the culprit's corner and ordered to stand up. She stood up, and the great crowd surged to and fro, and as she glanced hastily around her it seemed for a moment that a sort of unholy delight, at the thought of being the center of so much attraction, took possession of her. A conscious pride at the notoriety she had gained in this sickening tragedy seemed to nerve her up to stand the terrible sentence of the court about to be given. "What have you to say why the sentence of the court should not now be passed upon you," enquired the Judge. The doomed woman replied: "Not much. I suppose it's got to be done. I am innocent, but they have found me guilty, and I suppose I've got to submit."

Judge Tennant replied: "I have a painful duty to perform. There is no pleasure in it for me. It is my duty to impose the highest penalty known to our law, inasmuch as you have been convicted of the highest crime—murder in the first degree—by the jury. And in the opinion of the court the jury was warranted in finding and rendering such a verdict against you, and during your life-long confinement in a solitary cell in the penitentiary you will have plenty of opportunity to counsel with yourself and invoke the forgivenness of God. Your only real hope is on high. No hope for pleasure, peace or comfort in this world is to be indulged in. By your own wicked act your life is forfeited, and you no longer have any use for it, though under our law it shall still exist, for you are not yet prepared to die. It would be more merciful to end it at once if you were prepared. But as it is, it is more merciful to spare your life, to afford you time for repentance and to prepare to die. I advise that you indulge in no vain and delusive hope that you may

some day be favored with executive clemency by way of pardon, but devote all your enerergies in preparing for the great and certain future and not for your your return to your home and your children, for you will never see either again. [Throwing up both hands, and in wild and painful emotion at the thought, Mrs. Cargin fell her full length upon the floor.] However much you may care to see and enjoy the presence of your children, it is not probable they will care to see you. They and all that should be dear to you are gone forever, and you can enjoy them no more. It is the sentence of the court that you be conveyed to Jackson, there to be punished by solitary confinement at hard labor in the State prison for and during the term of your natural life."

During the reading of the last sentence, as Sheriff Andrus raised the fallen woman from the floor, she shrieked in agonizing tones, "Oh! my God, my poor, poor children!" But with all her show of grief, which for the moment appeared more or less real, the only demonstration of feeling exhibited by those present was a voice from the crowd, saying, "You ought to have thought of your children before this." The tone of that voice indicated that at least one man present—whom we might name if we choose—had no sympathy to bestow on so unworthy a creature, and as she was forced hurriedly back to jail sobbing as she went through the eager crowd, supported around the waist by the sheriff's arm, no look of pity rested upon her, and no word of comfort could she hear, and soon the peace and comfort which a felon's cell affords were hers.

THE LAST TWO.

After a brief pause in court, the Sheriff was directed to bring forward Norris Alexander and Mrs. Smith.

They were produced before the bar of justice, and again the eager and excited crowd swayed from side to side, and all pressed forward to obtain a better view of the two self-convicted murderers. The court counseled for a few minutes with Prosecuting Attorney Gillett and Messrs. Foote and Wilber, then turning towards the observed of all observers, said: "Mrs. Smith, stand up." She rose and removed her veil, turned her back to the crowd and looked down with the tears of lamentation or wrathful chagrin—we are not certain which—coursing down over her pallid cheek. In reply to the usual question of "What have you to say why the sentence of the court should not now be passed upon you," she simply said, "Nothing, sir." The court then proceeded to sentence her, saying in substance:

"The crime to which you have plead guilty is that of murder, and your own testimony shows it to be in the first degree, and in that degree the court has no discretion. The statute admits of only one sentence. It says the punishment of those found guilty in the first degree shall be confined in a dungeon for life. But your Prosecuting Attorney gave your counsel to understand, though he says it has not been brought home to your knowledge that should you give valuable and truthful testimony for the people upon the trial of the others accused with you, and thus materially aid in ferreting out and punishing all those connected with this crime, that he would recommend that you be found guilty of murder in the second degree instead of the first. This agreement the Prosecuting Attorney has kept sacred, and the court has countenanced such arrangement, though it is done on the grounds of public policy and not out of any sympathizing consideration to you. The fact that you are really guilty of murder in the first degree still remains, and, so far as you are concerned, ought to carry you to a dungeon for life. Oh! what must

your thoughts be? How could you so coolly and deliberately plan the death of the father of your children? No anger to drive you to it; no motive to prompt you save the one you have mentioned, that of enjoying uninterruptedly the person of your paramour and satiating your morbid lusts. You coolly expressed a wish to take your husband's life, yet you had not the courage to undertake the murder in company with your paramour, and it is at least possible but that for the intervention of third parties, in the persons of your sister and her husband, your children's father would have been alive to-day. But when they came you expressed a willingness, or it would never have been attempted by them. You have said you desire punishment in this world; you shall have it. You deserve more than the court can impose. Your life is forfeited to the State, yet for public policy, and that alone, your sentence will be lessened. You may live to come out of prison, and to see your children, now small and tender, grown to manhood and womanhood, but you cannot enjoy them, for they will disown you and cast you aside. What can they think of the mother that so foully slew their father [tears and sobs]. Repent and become a different woman for the effect it may have in the hereafter. People can never trust you though you live to be a hundred years of age. You will always bear the stigma of the woman that murdered the father of her children. You should repent in sackcloth and ashes all the rest of your days, that finally more mercy may be shown you than you showed your poor husband.

The sentence of the court is that you be conveyed to Jackson, there to be imprisoned at hard labor for the space and period of fifteen years from and including this day.

Norris Alexander's Sentence

occupied but little time. In reply to the usual question by the court, he said in a clear, calm and subdued tone, with tears trickling over his pale cheeks, "Your honor, I have nothing to say. You know all the circumstances and I humbly beg the mercy of the court." The court said: "Much that has been said to Mrs. Smith in your presence will apply to you, for you acted together in a common cause and for a common purpose. Smith took you into his family a mere boy. He was your friend, and you have slain him because he befriended you when your friends were few, father and mother being dead. Before foully killing your friend you stole the fortunes that his wife possessed, which were his. How could one of your age think of doing all this, and so coolly too? Why did you not turn back when on the road from Chesaning to Smith's house? Did you not hesitate at any time as you were going to perform that terrible mission?" Alexander, to the court: "No, your honor." Court resuming: "How could you stain your hands in your friend's blood? How strike the blows when he pleaded for his life? You might have even stopped then and saved yourself all this, but you would not. You deserve to be sentenced for life, yet for public policy under the circumstances, and the merciful recommendation of the Prosecuting Attorney, the court will make it less."

"The sentence of the court is, that you be conveyed to Jackson, there to be imprisoned in the State prison, at hard labor, for and during the period of ten years from and including this day.

The prisoners were again taken to the jail and the court adjourned.

Interviews.

As everything connected with these four people seems to be of intense interest to all classes of readers, we will give the result of an interview in jail.

ALEXANDER

looked contented and happy. He felt as if the Damoclean sword which had hung suspended over him for so long a time had fallen, and its terrors had proven only those of his own imagining. "Ten years," said he, "is about right—a very just sentence. It will let me out at the age of 29, and if I am to have a chance to become the right sort of a man, that will allow me time enough out of my lifetime in which to show that I am not so very bad. And then if I behave myself in prison, I willI be allowed two months on each year, which will shorten my sentence to eight years and four months. I intend to do as nearly as possible what is right and make my good time."

MRS. SMITH

was in the women's cell up stairs. Her daughter, Cora Rolfe, and Mr. Northwood's little daughter of about Cora's age, were with her, all sitting on the bed. Mrs. Smith was making a garment of pink calico, and the little girls were amusing themselves with their playthings. Mrs. Smith smiled when the reporter entered the cell, and shaking hands, invited him to sit on the bed. In response to inquiries, she said that she felt much happier and more peaceful since the affair was ended. She now knew the worst and was preparing herself to endure it as best she could. She said that her boy, aged seven years, and Cora were to live with Mr. Northwood, and her baby boy was provided with a home by her neighbor Speers. She would like to see her little boys, she said, and then she would be ready to go. She cried softly over the thought of the dear little ones whom she was leaving under circumstances so sad, and possibly thought of the long future of shame that by her conduct she had entailed upon them, the thought that through their lives they would blush at the mention of their mother's name, and only think of her to curse her for the terrible inheritance that descended from her. Whatever her thoughts may have been, tears trickled down her cheeks at the thought of her children. "If I could only see them," she said, "I should be ready to go." The conversation turned on Mrs. Cargin. Mrs. Smith had heard that Mrs. Cargin was telling stories now implicating others in the crime. "But," said she, "what I said on the witness stand was God's truth. No one only those I mentioned had anything to do with it. We committed the crime, and no one else should suffer for it." She said her life in the future could be no more unhappy than in the past; that hers had been a sad, hard life from the beginning, with no glimpses of happiness—one long series of hard lines and hard knocks. She said it was a hard thing to say of one

who was dead and gone, but Charlie had never been good to her, had frequently beaten her, and what love she had for him in the beginning had long since turned to the bitterest hate. He was ignorant, penurious and brutal. She mentioned several occasions upon which he had brutally beaten her. Upon the whole it did not seem as if she regretted her terrible crime.

MRS. CARGIN.

If one could forget the terrible crime of which she had been convicted, and of which there is every reason for believing her guilty, one could not help a feeling of sympathy and sorrow when seeing her sad, broken-hearted condition. The storm howled without and the early winter twilight was almost night in the gloomy underground cell occupied by this prisoner. The key was given to the reporter, and in the uncanny.light he sought the dark dungeon. As he opened the door there was a stir, and on the bed the dim light revealed a female form upon its knees endeavoring to discover the visitor. Mrs. Cargin was dressed in a calico wrapper, and altogether presented a most woe-begone aspect. She said she was not very well, and the excitement of the past few days had rendered her worse. She murmured at the unjustness of the sentence. She said to the reporter: "Can you not see the injustice? I, who have done nothing, sentenced for life, and my sister, who has done it all, receive so paltry a sentence? I hope that God may do unto that Judge as he has done to me. But I can thank God for one thing. I am not going to the State prison for life for having killed my husband, for having ruined the life of another woman's son, nor am I going for being a harlot. I am an innocent woman, and never wronged man or woman. I knew there was some nonsense between Mrs. Smith and Alexander, but if she had ever opened her head to tell me anything about killing Smith, I should have swatted her mouth. Ah, my God! She is sentenced for a short time, and when that expires she can marry the man she loves. But mark you. I swear by the living God that she will not live with him more than half a dozen years before he will share poor Charlie's fate! A woman who will kill one man when she tires of him, will tire of and kill another. She may love him for a few years, but after that it will be 'hell-ety-clink' with them and he will go the way of Smith.

But, oh God! To think of my fate and that of Free. That poor boy is so young! to think of his never getting any more good of his life. He is only 24, although he looks to be 30. He is but a boy. I am so much older than he that on fair grounds and places where we have been together I have introduced him as my oldest son. It was a foolish marriage and I knew it, but he has been after me for two or three years and I had put him off on account of his youth."

The prisoner forgot her troubles momentarily in these reminiscences, and became animated and cheerful. She wiped away with her night cap a tear that lingered from her former grief, and resumed: "Oh! my God! how black is our look ahead now! There is no hope. If we had only been given a certain length of time so that we might look forward to it with hope--even though it might be long. The future is all blank. I never shall be with my children again, never enjoy another moment's pleasure with them."

The reporter offered his hand to bid her good-by. She grasped it and again burst into a flood of tears. "Oh!" she sobbed, "everybody seems so good to me, and I must be shut up where I can never see a kindly face again. Ah! it is too much—too much!"

In Prison.

Sheriff Adams and Ex-Sheriff Andrus went to Detroit on Tuesday morning, January 2, 1877, on the 6 o'clock train and conveyed Mrs. Smith and Mrs. Cargin to their future home in the House of Correction. Mrs. Smith's children were brought down on Monday noon and stayed with her until her departure. The parting was very effecting and tears flowed copiously. Mr. and Mrs. John Northwood, neighbors of the Smith's were true to the last and accompanied the party to the East Saginaw depot. Mrs. Cargin seemed to take it as a matter of course and didn't seem to mind it. She didn't cry any.

Alexander was conveyed to the State Prison at Jackson on Thursday, January 4th, 1877.

Thus ends the record of the Smith murder trial. No sympathy is expressed for any of the perpetrators, the verdict of the people being that they were all guilty and merited even worse that they received.

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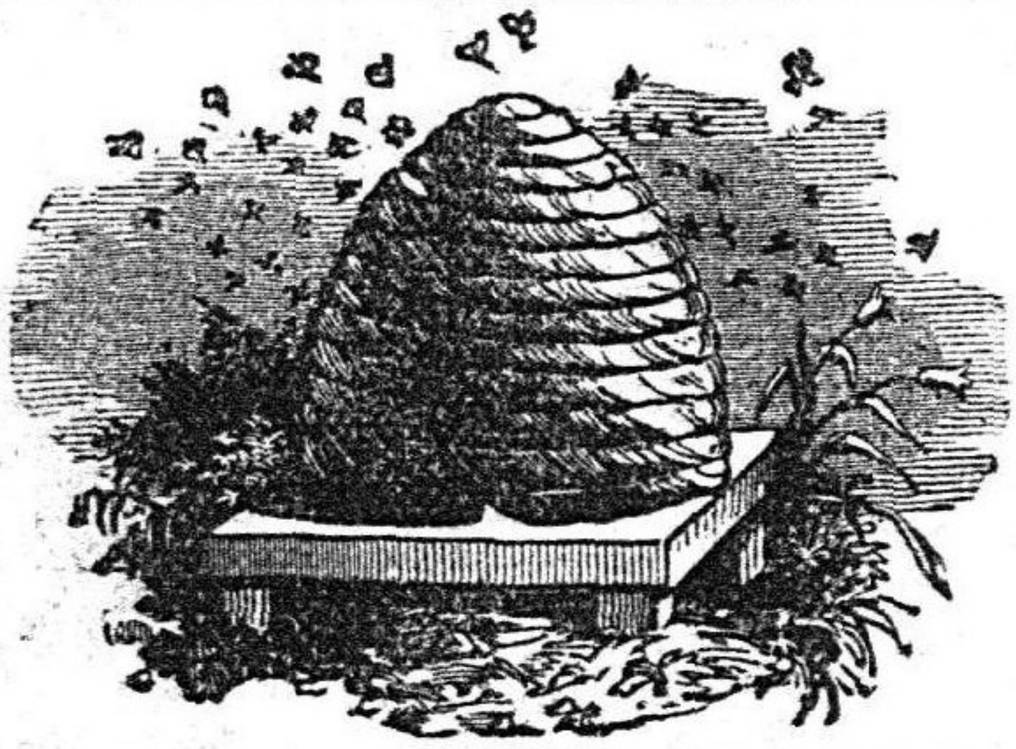

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